United States Dept. of the Interior

Mining Enforcement & Safety Administration

Public Hearing

Porter Tunnel Mine (Disaster)

Tower City, Schuylkill County,

Pennsylvania

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UNITED STATES DEPARTMENT OF THE INTERIOR

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

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PUBLIC HEARING :
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PORTER TUNNEL MINE (DISASTER) :
TOWER CITY, SCHUYLKILL COUNTY, :
PENNSYLVANIA :
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American Legion Hall
South Tenth Street
Tower City, Pennsylvania

Thursday, June 9, 1977

Met, pursuant to adjournment, at 9:00 a.m.

BEFORE:

JOSEPH O. COOK, Co-Chairman
Deputy Assistant Administrator, Coal Mine Health and Safety, Mining Enforcement and Safety Administration

WALTER J. VICINELLY, Co-Chairman
Commissioner, Office of Deep Mine Safety
Pennsylvania Department of Environmental Resources

PANEL MEMBERS:

JACK E. TISDALE
District Manager, Coal Mine Health and Safety, District 3, Morgantown, West Virginia

JAMES J. SHOBER, JR.
Anthracite Deep Mine Safety Director, Office of Deep Mine Safety, Pennsylvania Department of Environmental Resources, Pottsville, Pennsylvania

ROBERT J. PHARES
Trial Attorney, Office of the Solicitor, United States Department of the Interior

DENNIS STRAIN
Assistant Attorney General, Pennsylvania Department of Environmental Resources, Bureau of Legal Services.

APPEARANCES:

DAVID TODD, Esquire
Office of the Solicitor
Department of the Interior
4015 Wilson Boulevard
Arlington, Virginia 22201
(For MESA)

ALLEN SHAFFER, Esquire
Shaffer and Kleinman
120 Market Street
Harrisburg, Pennsylvania 17101
(For Kocher Coal Company)

MARK SAVIT, Esquire
Cotten, Day and Doyle
804 Ring Building
1200 18th Street, N.W.
Washington, D. C. 20036
(For Kocher Coal Company)

JUSTINE WASICEK, Esquire
Pennsylvania Department of Environmental Resources
Bureau of Legal Services
Harrisburg, Pennsylvania
(For Clarence Miller)

ALSO PRESENT:

EDWARD GREEN, Esquire
Special Assistant to the Administrator of MESA

JOHN SHUTACK, District Manager, Coal Mine Health and Safety, District 1

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P R O C E E D I N G S

MR. COOK: Good morning. This hearing will now come to order.

We have been requested to enter into the record a list of all the persons that were subpoenaed to testify here at this hearing, and also to indicate on that record those witnesses that were subpoenaed and have not been called.

We are noting for the record that that will be entered.

At this time I would like to turn the hearing over to Mr. Vicinelly.

MR. VICINELLY: Thank you, Joe.

Good morning. This morning we have with us Representative Bernie O'Brien, a member of the General Assembly of Pennsylvania, and also Chairman of the Mines and Energy Committee, who would like to get some remarks on the record.

Bernie.

REPRESENTATIVE O'BRIEN: Originally, we were supposed to be in session and I had Joan Evans, who was going to read my statement.

I will be available after -- Joan has practiced this, and I don't want to disappoint her, so I am going to have her read the statement and I will be available for any questions.

MS. EVANS: Thank you.

My name is Joan Evans, I am research analyst for the

Mines and Energy Management Committee of Pennsylvania House of Representatives.

I am speaking in behalf of Representative Bernard O'Brien, Chairman of that committee.

Years ago, it was the tradition of the coal industry that when a mining accident occurred, the nearby coal companies would pull their manpower and resources together and assist in recovery efforts.

An example of this type of effort would be the Shepton Mine disaster. This type of rescue assistance had its advantages.

First, the people participating in the rescue activities were well qualified and knowledgeable individuals who were familiar with the mine sites and rescue techniques.

Second, these people were readily available to quickly effect the rescue effort.

To me, this type of operation has merit and should be carefully reviewed.

There have been certain allegations made questioning the use of the money that was spent by MESA during the Tower City disaster.

For example, they initially went to Salt Lake City for certain rescue equipment, only to find that they could not get this equipment on the plane.

They then went to the western part of our state,

Ebensburg, for drilling equipment. They brought this by way of highway.

However, this drill was never put together and was left to lay idle during the recovery operation. In addition, approximately 30 people were brought in to run this equipment and were placed on standby.

There were well-qualified local people available who donated their time and equipment, brought parts and supplies, that were never reimbursed.

It is my opinion that these people should have been utilized more.

While I do not fault MESA for contracting this type of work, I do believe that they should make sure that in the event of a disaster, the personnel and the necessary equipment are readily available in the area to undertake a rescue mission.

In my opinion, MESA should be aware of who possesses the necessary rescue equipment in the area of a mine disaster. If a disaster occurs, then they should be able to utilize this nearby equipment.

This, to me, is preferable to sending out for equipment that is located across the state, or, perhaps, even across the country.

In regard to the mine disaster itself, I feel it accents the need for us to take a closer look at our safety

laws.

It is a common fact that there have been independent, or, as referred to, bootleg mining initiated in the hard coal region.

As a result, there are many hidden mine shafts in this area which are not marked on maps, because no one knew where these bootleggers drilled.

Therefore, anthracite mining requires special precautions. For instance, when you are driving a gangway at the face of the mine, you must recognize the possibility that there may be water in that particular area.

It is my understanding that the standard procedure to guard against setting a blast when breaking into an underground body of water, is to drill probe holes an inch in diameter and 20 to 30 feet into the face prior to the blasting.

I suggest that you consider the possibility of expanding this procedure and requiring probe holes to be drilled around the entire area.

When you consider the danger and risk involved in drilling in the hard coal area, safety precautions must be maximized. We must provide some type of insurance that a disaster similar to the Tower City incident does not happen again.

The Mines and Energy Management Committee wishes to cooperate with MESA and the Office of Deep Mining Safety in

this area, and we offer our total assistance.

If you conclude that legislation is in order on the state level to assure a higher degree of safety, we will be most willing to sponsor it.

Finally, much of my input is from the people that I talked with while at the mine site. These people did not want me to divulge their identities, but I do feel that they are truly creditable sources.

From what they have told me, and what I have relayed to you today, I ask that this disaster be fully examined so that we may determine not only why it occurred and how to prevent future occurrences, but also if it occurs, what should be done to effect a speedy and successful rescue operation.

REPRESENTATIVE O'BRIEN: Since the time I put this information together, I found, also, that MESA brought in dozers and other equipment; that some of this equipment was available right on the ground. They really did not have to go like to Kentucky or Virginia. I think this is wrong.

Another thing, Walter, I have asked this question on the site: In a case of emergency, who has the complete control, you or MESA?

I am putting you on the spot, but I would like to find out who makes the decisions, how do you arrive at decisions, and who is in control of an operation?

MR. VICINELLY: Okay, Bernie, I am going to answer as

far as the state goes, and then Joe, I guess, can answer it for MESA.

We have our laws to enforce, and we will enforce our laws and do everything we can in recovery work. In the past we have worked together with MESA. Decisions that were made were joint decisions between MESA, myself, and the coal company.

Joe, do you want to add anything to that?

MR. COOK: I think, speaking for MESA, the authority of MESA is outlined in Title 1 of the federal Coal Mine Health and Safety Act.

It does say under certain conditions that MESA could take control of the mine. I don't think we have ever found that necessary to the exclusion of the state in any manner.

We normally work with the state, and as far as I know, in about every instance, decisions are made jointly; and, to the extent possible, jointly with the company and the workers at the mine.

So, we do have broad authority, but in most cases, it is always joint --

REPRESENTATIVE O'BRIEN: You feel there is no problem when it comes to working together?

MR. COOK: I haven't experienced any.

REPRESENTATIVE O'BRIEN: Okay, I am satisfied.

Any other questions?

MR. VICINELLY: Are there any other questions?

(No response.)

MR. VICINELLY: Thank you, Bernie.

MR. COOK: At this time we would like to have Mr. Raymond Keefer, please.

Whereupon,

RAYMOND KEEFER

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record, and spell it.

WITNESS KEEFER: Raymond Keefer, K-e-e-f-e-r.

MR. PHARES: What is your address, please?

WITNESS KEEFER: R. D. 2, Box 288, Shamokin, Pennsylvania.

MR. PHARES: Mr. Keefer, before we begin the questioning I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statements which might lead to your conviction of any state or federal offense. You should understand that any statements which you

make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand these rights which I have just explained to you?

WITNESS KEEFER: Yes.

MR. PHARES: Would counsel please enter appearances?

MR. SHAFFER: Allen Shaffer, Shaffer and Kleinman.

MR. SAVIT: Mark Savit, Cotten, Day and Doyle.

MR. COOK: Mr. Keefer, where are you presently employed?

WITNESS KEEFER: At Kocher Coal Company.

MR. COOK: How long have you been employed there?

WITNESS KEEFER: About 27 months.

MR. COOK: About 27 months?

WITNESS KEEFER: Yes.

MR. COOK: What is your position there, Mr. Keefer?

WITNESS KEEFER: Section foreman.

MR. COOK: Have you held that position for the full time that you have been with the Porter Tunnel Mine?

WITNESS KEEFER: No. I was a miner for about three months.

MR. COOK: You were a miner for about three months?

WITNESS KEEFER: Yes, sir.

MR. COOK: What were your duties on March 1, 1977, the day of the inundation?

WITNESS KEEFER: Well, to make my rounds.

MR. COOK: When you make your rounds, what is required of you on a typical day? What do your rounds consist of?

WITNESS KEEFER: Of going in and checking the places and see that they are safe for the men to work.

MR. COOK: How many places do you check? How many working sections?

WITNESS KEEFER: About 13.

MR. COOK: About 13?

WITNESS KEEFER: Yes.

MR. COOK: That would be on both the east and west side of the tunnel?

WITNESS KEEFER: East and west side.

MR. COOK: Was the West Skidmore Gangway section under your supervision?

WITNESS KEEFER: Yes.

MR. COOK: And, was this the night prior to the inundation -- what shift were you working on March 1?

WITNESS KEEFER: On the second.

MR. COOK: You were on the second shift?

WITNESS KEEFER: Yes.

MR. COOK: What time did you enter the mine?

WITNESS KEEFER: At 2:00 p.m.

MR. COOK: At 2:00. And, what time do your normally arrive back on the surface?

WITNESS KEEFER: At 10:30.

MR. COOK: How often do you visit the working places?

WITNESS KEEFER: Well, once, and sometimes two, if I get around. If I don't have no trouble.

MR. COOK: On the shift prior to the inundation were you in the West Skidmore section?

WITNESS KEEFER: Yes.

MR. COOK: How many times were you in there?

WITNESS KEEFER: I don't recall. One for sure.

MR. COOK: One for sure?

WITNESS KEEFER: Yes.

MR. COOK: Did you check all the working places at that time?

WITNESS KEEFER: Every one.

MR. COOK: At that time did you notice anything unusual or different?

WITNESS KEEFER: No, I didn't.

MR. COOK: Who do you receive your instructions from?

WITNESS KEEFER: Sam Klinger.

MR. COOK: If there is something that Mr. Klinger wants to pass on to you, how is that normally done, verbally or written?

WITNESS KEEFER: He tells me.

MR. COOK: We are looking into certain areas of work in the Porter Tunnel Mine. How was the pattern for drilling test holes passed on to you?

WITNESS KEEFER: You went one straight up, one in the upper rib and one down.

MR. COOK: What areas of the mine is this drill pattern being used in?

WITNESS KEEFER: Back in the South Dip Skidmore.

MR. COOK: That is the only section?

WITNESS KEEFER: Right now, yes.

MR. COOK: Are there any other sections advancing toward possible sources of mine water, old works?

WITNESS KEEFER: Not that I know of.

MR. COOK: In checking the working places in the West Skidmore section have you ever found the drilling patterns not being followed?

WITNESS KEEFER: No, I haven't.

MR. COOK: In the West Skidmore Gangway section did you have occasion to see the test holes being drilled, say the shift prior to the inundation?

WITNESS KEEFER: Yes.

MR. COOK: In the gangway?

WITNESS KEEFER: Yes.

MR. COOK: How deep were the holes being drilled?

WITNESS KEEFER: Anywhere from 20 feet to 34 feet.

MR. COOK: Do you check these holes?

WITNESS KEEFER: Some of them, yes.

MR. COOK: How do you check them, Mr. Keefer?

WITNESS KEEFER: By counting them on the steels as we pull them out.

MR. COOK: If you go into a working place and the test holes have already been drilled, could you check, say, the low rib side, the flank holes, after the steel had been withdrawn?

WITNESS KEEFER: Not always, no; you couldn't fit.

MR. COOK: It wouldn't fit back in normally?

WITNESS KEEFER: Normally you couldn't.

MR. COOK: We have heard different testimony here about the difficulties of drilling holes, speaking again of the gangway heading or the monkey heading.

Would any of the three holes, the one straight ahead, the high rib side, or the low rib side -- would any of those be more difficult to drill than the others?

WITNESS KEEFER: Well, the one going down would be.

MR. COOK: Generally speaking, why is that so?

WITNESS KEEFER: Well, it gets just a little bit of moisture and sometimes it don't feed right; you can hit seams of boney coal.

MR. COOK: Do you have occasions where you hit rolls

in the low rib side, which makes it difficult or impossible to drill those holes?

WITNESS KEEFER: Yes.

MR. COOK: What do you do in those instances?

WITNESS KEEFER: We have to move the hole to a different section.

MR. COOK: Have you ever had an occasion where you could not, in fact, drill the down hole?

WITNESS KEEFER: No.

MR. COOK: You have always been able to do that?

WITNESS KEEFER: Most of the time.

MR. COOK: Most of the time?

WITNESS KEEFER: Yes.

MR. COOK: There is never a time that you know of that you could not?

WITNESS KEEFER: Not that I recall.

MR. COOK: What is the drilling pattern on the pitch and in the chutes?

WITNESS KEEFER: One straight ahead, and then the both ribs, right and left rib.

MR. COOK: Do you carry a map of the different sections that you have jurisdiction over, a section map of those?

WITNESS KEEFER: I don't carry one, no.

MR. COOK: Is there a map made available to you

showing you --

WITNESS KEEFER: Yes.

MR. COOK: Where is that map normally kept?

WITNESS KEEFER: Usually at the gangways.

MR. COOK: Is it posted at the gangway?

WITNESS KEEFER: It is posted.

MR. COOK: Is there a section map of the West Skidmore Gangway section posted on the section?

WITNESS KEEFER: Yes.

MR. COOK: Are the men who work in that section aware of that map?

WITNESS KEEFER: Yes.

MR. COOK: On this map, did it delineate, or did it show anything about the old workings that you were driving toward?

WITNESS KEEFER: No.

MR. COOK: When were you first aware that there were old workings in advance of the West Skidmore Gangway?

WITNESS KEEFER: I don't recall.

MR. COOK: Were you working at the mine when this section was first started?

WITNESS KEEFER: Yes.

MR. COOK: Do you recall when the drilling pattern for test holes was first initiated in the West Skidmore section?

WITNESS KEEFER: It was around the 8th breast.

MR. COOK: Was there anything in particular that happened at that time that would cause that pattern to have been started at that particular time?

WITNESS KEEFER: No.

MR. COOK: Was there any explanation given to you why it was started at that particular time?

WITNESS KEEFER: No. They knew there was water there, but they did not know where.

MR. COOK: If they didn't know where, I wonder why they didn't start it sooner. Would you have any idea?

WITNESS KEEFER: No.

MR. COOK: Were there ever any occasions on your shift where you accidentally or where there was an unplanned blasting through into old works?

WITNESS KEEFER: No.

MR. COOK: Did you ever experience any difficulty in drilling the test holes and draining the water in the old Weaver Mine?

WITNESS KEEFER: No.

MR. COOK: Mr. Vicinelly.

MR. VICINELLY: Mr. Keefer, how many men are under your jurisdiction?

WITNESS KEEFER: Anywheres from 30 to 35.

MR. VICINELLY: How many men do you have under your jurisdiction in the West Skidmore?

WITNESS KEEFER: I don't know right now offhand -- about 14.

MR. VICINELLY: Do you issue orders prior to these men going to work?

WITNESS KEEFER: Yes.

MR. VICINELLY: And, these orders that you issue come from who?

WITNESS KEEFER: Well, from Sam Klinger and what I think should be done.

MR. VICINELLY: Do you talk to the foreman that was on the previous shift?

WITNESS KEEFER: Yes.

MR. VICINELLY: Does he issue orders?

WITNESS KEEFER: He tells me what has to be done, and what has to be done yet; yes.

MR. VICINELLY: The foreman on a previous shift, has he issued any orders or information on unusual conditions?

WITNESS KEEFER: No.

MR. VICINELLY: If there were unusual conditions, would he notify you of them?

WITNESS KEEFER: Yes.

MR. VICINELLY: Were there any unusual conditions reported to you from the previous shift previous to the break-in on March 1?

WITNESS KEEFER: No.

MR. VICINELLY: Were you the section foreman when Number 8 Breast was driven?

WITNESS KEEFER: Yes.

MR. VICINELLY: Was Number 8 Breast drilled into on your shift?

WITNESS KEEFER: Yes.

MR. VICINELLY: Could you tell us what took place that day?

WITNESS KEEFER: Well, I was making the rounds over on the other side on the North Dip, the east section, and they drilled through and they called me, and I come over.

MR. VICINELLY: When you visited the place, what did you find?

WITNESS KEEFER: That they had drilled through and the steel was still in the hole, and I told them to let it there.

MR. VICINELLY: Why would you want it left in the hole?

WITNESS KEEFER: Because, if you pull it out it will open the hole, just according to how it is; it might increase it.

MR. VICINELLY: Would you want that hole open to drain the water out? Was that the purpose of the hole?

WITNESS KEEFER: After the pressure goes down some, yeah.

MR. VICINELLY: When the drill steel was in there

there was water coming out of the hole?

WITNESS KEEFER: Yeah, definitely.

MR. VICINELLY: Then what did you do when the water was coming out of the hole?

WITNESS KEEFER: Then I went down, I pulled all the men out. I pulled them all the ways out to the bottom, down the main tunnel.

MR. VICINELLY: Nobody was permitted to work in there while the water was draining?

WITNESS KEEFER: Nobody.

MR. VICINELLY: Now, at that time how many holes were drilled in a place? When you first went up, the first time that you examined the place where the drill steel was in, was there just one hole?

WITNESS KEEFER: Just one.

MR. VICINELLY: Did you drill any additional holes?

WITNESS KEEFER: After, yes.

MR. VICINELLY: How many?

WITNESS KEEFER: I don't recall.

MR. VICINELLY: Were they in the same area?

WITNESS KEEFER: Around the same area.

MR. VICINELLY: Do you recall how long it took to tap the water off?

WITNESS KEEFER: No, I don't.

MR. VICINELLY: How do you determine, once the water

has been tapped off, that once it stops running that there is no water above you? How is that determined?

WITNESS KEEFER: Well, you have to drill up to see if there is any above you.

MR. VICINELLY: You are saying you drill additional holes, one set of holes --

WITNESS KEEFER: Yes.

MR. VICINELLY: Where you had this test hole, was that area opened up?

WITNESS KEEFER: Yes.

MR. VICINELLY: How was it opened up?

WITNESS KEEFER: By driving it, mining it.

MR. VICINELLY: Once you opened it up, did you examine the area?

WITNESS KEEFER: Yes.

MR. VICINELLY: What were the conditions in there?

WITNESS KEEFER: The conditions were fair.

MR. VICINELLY: Was there any water in there?

WITNESS KEEFER: No.

MR. VICINELLY: How far were you able to examine in that abandoned working, or how far did you travel?

WITNESS KEEFER: I didn't travel in no more than right there.

MR. VICINELLY: Could you have traveled farther in there?

WITNESS KEEFER: Yes.

MR. VICINELLY: Was there any other breast that you had drilled holes to tap water off?

WITNESS KEEFER: On all the breasts all the ways in from there on.

MR. VICINELLY: Could you identify it in breasts for me?

WITNESS KEEFER: Well, it is 9, 10, and all the ways up to 15.

MR. VICINELLY: Did you encounter any water at those breasts?

WITNESS KEEFER: Yes.

MR. VICINELLY: Was the same procedure used to tap them off?

WITNESS KEEFER: Yes.

MR. VICINELLY: Were the men withdrawn?

WITNESS KEEFER: Yes, they were.

MR. VICINELLY: 15 was the last breast that was tapped off for water?

WITNESS KEEFER: Yes.

MR. VICINELLY: Were you underground at that time?

WITNESS KEEFER: If it was drilled through on my shift, yes.

MR. VICINELLY: Do you recall if it was drilled through on your shift?

WITNESS KEEFER: On some of them, yes.

MR. VICINELLY: I am talking about Number 15, Mr. Keefer.

WITNESS KEEFER: No, I don't recall.

MR. VICINELLY: Do you have any knowledge of the amount of water that came out of 15?

WITNESS KEEFER: Not much. Just what was laying on the bottom of the gangway there.

MR. VICINELLY: How did you instruct your men on drilling test holes?

WITNESS KEEFER: I instructed them that they had to drill them every day.

MR. VICINELLY: Was this done while the men were all together, or was it done each individual place?

WITNESS KEEFER: Well, they moved the drilling ahead, and then when I went around to each one of them places I told them every day, definitely, that they had -- I didn't care how they done it, but I want them holes there -- or how long it took.

MR. VICINELLY: Did you have any idea where you would most likely run into the water?

WITNESS KEEFER: You mean on the gangway, on the breast --

MR. VICINELLY: Anywhere in the Skidmore.

WITNESS KEEFER: No.

MR. VICINELLY: Did you feel it was a possibility that it could be below you?

WITNESS KEEFER: It was possible for anything.

MR. VICINELLY: That is all I have.

MR. COOK: Mr. Keefer, on the shift prior to the inundation, were you in Number 17 Slant Breast in the West Skidmore section?

WITNESS KEEFER: Yes.

MR. COOK: How were test holes being drilled in that section?

WITNESS KEEFER: Well, we were fanning them out, right around.

MR. COOK: Right around?

WITNESS KEEFER: Yes.

MR. COOK: Could you be a little more specific?

WITNESS KEEFER: Well, you drill one on the -- you mean up on 17?

MR. COOK: Yes, 17 Slant Breast.

WITNESS KEEFER: You drill one to the right, to the center, and to the left.

MR. COOK: You drill one to the right also?

WITNESS KEEFER: Yes.

MR. COOK: In that rib side, the right rib side?

WITNESS KEEFER: Definitely.

MR. COOK: We have a question from the audience that

I will ask right now.

Yesterday we had miners say that they had not seen a map of their section posted anywhere on the section. As I asked you earlier, you said there is one posted there.

Is there any reason that the miners didn't pass by this area? I was wondering why they might have stated they didn't know about it, or hadn't seen it.

WITNESS KEEFER: I don't know why.

MR. COOK: But, prior to March 1, 1977, there was a map posted at the West Skidmore Gangway section?

WITNESS KEEFER: I didn't say that.

MR. COOK: I am asking you a question now. Was there one prior to then?

WITNESS KEEFER: No.

MR. COOK: When was the map that you were referring to posted at the West Skidmore section?

WITNESS KEEFER: I don't recall.

MR. COOK: It was after the inundation?

WITNESS KEEFER: Yes.

MR. COOK: This question said that most of the time you felt sure that the down holes were being drilled. When was it that they were not being drilled? I am talking about drilling the down holes and the difficulties, and you said in most instances they were able to drill them down. I think I followed back with the question -- did you say -- were there

ever instances when you could not drill the down holes?

WITNESS KEEFER: No.

MR. COOK: You were always able to drill them, to the best of your knowledge?

WITNESS KEEFER: Generally, yes.

MR. COOK: There was never a case when you could not drill them?

WITNESS KEEFER: No.

MR. COOK: How did you check the angle of any of the drill holes, either the high rib side or the low rib side?

WITNESS KEEFER: Well, you could see them when the steel was in them, or you could see which way they were going.

MR. COOK: In most instances, were you able to check the depth, and, in your mind, determine the number of feet that they had been drilled?

WITNESS KEEFER: Not down.

MR. COOK: When could you do it on the down holes?

WITNESS KEEFER: Usually when you come in there when they were drilling them.

MR. COOK: Did you ever make it a point, in your work, to make yourself present when they were drilling the down holes to see what the depth was?

WITNESS KEEFER: At times.

MR. COOK: Mr. Shober.

MR. SHOBER: Mr. Keefer, how often did you visit each

working face on each shift?

WITNESS KEEFER: Once, and sometimes twice, if I could get around.

MR. SHOBER: How often did you meet with the mine foreman in the section, underground or on the surface?

WITNESS KEEFER: At times -- I don't know.

MR. SHAFFER: Point of clarification. You mentioned "mine foreman." You mean Mr. Klinger?

MR. SHOBER: I mean Mr. Klinger, general mine foreman.

WITNESS KEEFER: Usually I went in on the second shift and then he went -- it was his time to go home.

MR. SHOBER: Did you and the general mine foreman discuss the test drilling program and the fact that you thought you were approaching abandoned, uncharted workings?

WITNESS KEEFER: Yes.

MR. SHOBER: Mr. Keefer, was this once a week or occasionally?

WITNESS KEEFER: No. It was just about every day.

MR. SHOBER: Quite frequently.

How many test holes were usually drilled at the face of the West Skidmore Gangway and monkey heading to complete the pattern since the drilling program began?

WITNESS KEEFER: On each cut, you mean?

MR. SHOBER: Yes.

WITNESS KEEFER: Three.

MR. SHOBER: Would you explain just how they were drilled, Mr. Keefer?

WITNESS KEEFER: On the upper end?

MR. SHOBER: Yes.

WITNESS KEEFER: In straight and down.

MR. SHOBER: How many test holes were drilled at the face of the gangway, the monkey heading and the Number 17 Chute on the previous night, that is the night that you were in charge?

WITNESS KEEFER: I don't think they were drilling any on my shift.

MR. SHOBER: Were test holes drilled a minimum of 20 feet in advance of inby working faces at all faces on the night prior to the accident?

WITNESS KEEFER: I don't know, to the best of my knowledge.

MR. SHOBER: Now, then, Mr. Keefer, do you measure the depth of the holes?

WITNESS KEEFER: At times.

MR. SHOBER: The drill hole pattern that has been drawn up since you began drilling test holes at Number 8 Chute, I think you said, who explained this to you?

WITNESS KEEFER: Sam Klinger.

MR. SHOBER: The general foreman.

The night prior to the accident, were there drill holes advanced, test drill holes, in the West Skidmore Gangway?

WITNESS KEEFER: The night before?

MR. SHOBER: Yes.

WITNESS KEEFER: No, they were timbering that day.

MR. SHOBER: And, as you mentioned before, when they were drilling the down hole, the West Side Skidmore Gangway, on the low rib side, if you did drill a hole less than 20 feet, what was the next move that was made?

(Pause.)

MR. SHOBER: I can change that question if you want me to.

In the event, Mr. Keefer, that you drilled your down hole on the low side and you did hit rock at a depth, say, of 10 feet, did you continue to drill that hole?

WITNESS KEEFER: If we could get through it, sometimes, it would be down. If not, we would change the hole.

MR. SHOBER: Did you have a hard time, or did you notice your men had a hard time drilling the down holes?

WITNESS KEEFER: On the bottom, yes.

MR. SHOBER: In the event that the drill or steel would get stuck, or a bit were broken, what was the next move that you would make in a case like that?

WITNESS KEEFER: Well, if the bit was stuck you have to work it until you can get it out. If not, you would have to

wait until she loosened up to get it out, and then you would drill another hole, or you use other steels.

MR. SHOBER: In these holes that were being drilled along the low side rib, as I understood you to say, they were usually drilled with the pitch of the seam?

WITNESS KEEFER: Yes.

MR. SHOBER: Around 45?

WITNESS KEEFER: Yes.

MR. SHOBER: Thank you, Mr. Keefer.

MR. COOK: Mr. Tisdale.

MR. TISDALE: Mr. Keefer, you said you had studied the mine map, is that correct?

WITNESS KEEFER: Yes.

MR. TISDALE: And there were no workings, old abandoned workings, shown on the mine map; is that what you said?

WITNESS KEEFER: No, I didn't.

MR. TISDALE: Could you explain what was on the mine map in relation to the old abandoned workings?

WITNESS KEEFER: It was on the map on the top, on the surface; that is all.

MR. TISDALE: Were there any dotted lines on the mine map that would show suspected old workings?

WITNESS KEEFER: Yes.

MR. TISDALE: What was that? Could you describe the

dotted lines that were shown on the mine map?

WITNESS KEEFER: They were just marked down what they figured it would be, about.

MR. TISDALE: What was that?

WITNESS KEEFER: Down into that area.

MR. TISDALE: Let me repeat my question. The mine map showed some information about old abandoned works with dotted lines.

WITNESS KEEFER: Yes.

MR. TISDALE: What did those dotted lines show?

WITNESS KEEFER: It showed, probably, that it could be mined there.

MR. TISDALE: What was the extent of the dotted lines?

WITNESS KEEFER: It didn't show nothing, just the top end. I mean the dotted line --

MR. TISDALE: I didn't understand your response.

WITNESS KEEFER: It didn't show anything; only that showed down -- that was probably worked down there.

MR. TISDALE: How far down?

WITNESS KEEFER: I don't recall.

MR. TISDALE: But, you did study the mine map?

WITNESS KEEFER: Yes.

MR. TISDALE: You were concerned about the old abandoned works?

WITNESS KEEFER: Very much.

MR. TISDALE: You had discussed them almost every day?

WITNESS KEEFER: Every day.

MR. TISDALE: But, yet, you don't know how far down that old slope was shown?

WITNESS KEEFER: No.

MR. TISDALE: Did you discuss the mine map with any of your miners under your supervision?

WITNESS KEEFER: Yes.

MR. TISDALE: Did you explain anything to them about the old abandoned works?

WITNESS KEEFER: Yes.

MR. TISDALE: What did you tell them?

WITNESS KEEFER: I told them "it is around here someplace, but we don't know where it is at. We are going to have to find it, and you guys are going to have to drill for it."

MR. TISDALE: Did you explain to them the extent of the dotted lines on the map which showed suspected location of old works?

WITNESS KEEFER: We suspected it was down through there; down past us there someplace.

MR. TISDALE: Are you acquainted with the federal regulations with respect to drilling test holes?

WITNESS KEEFER: Yes.

MR. TISDALE: Could you describe them to me?

WITNESS KEEFER: Well, you want to have holes drilled

ahead, 20 feet at the minimum.

MR. TISDALE: In what direction?

WITNESS KEEFER: Straight ahead, to the right, to the left, down the upper rib.

MR. TISDALE: Did you discuss the requirements of drilling test holes with the federal inspectors?

WITNESS KEEFER: No.

MR. TISDALE: One point I would like to clear up for myself. You intersected water from the old mine at Number 8 Breast in one of the miner headings. Prior to intersecting that water, were you drilling test holes in Number 8 Breast?

WITNESS KEEFER: Yes.

MR. TISDALE: Where were the test holes being drilled?

WITNESS KEEFER: We were drilling on the rib and ahead.

MR. TISDALE: Would you explain that a little bit more fully, please?

WITNESS KEEFER: Well, we were drilling to the right, and to the left, and straight ahead.

MR. TISDALE: You were drilling to the right, and the left, and straight ahead?

WITNESS KEEFER: Yes.

MR. TISDALE: And, I understand the water was intersected with the Number 8 Miner Heading?

WITNESS KEEFER: 7.

MR. TISDALE: Were you drilling test holes at the face of that miner heading?

WITNESS KEEFER: Yes.

MR. TISDALE: You were drilling test holes at the face of Number 7 Miner Heading prior to intersecting the water?

WITNESS KEEFER: Yes.

MR. TISDALE: Had you visited that face at Number 7 Miner Heading before it intersected the water?

WITNESS KEEFER: No.

MR. TISDALE: Did you ever tell anybody not to drill test holes, let's get production today and not drill test holes?

WITNESS KEEFER: No, sir.

MR. TISDALE: Do you carry a methane detector?

WITNESS KEEFER: Yes.

MR. TISDALE: Where in Number 8 Breast, if you recall, did you start drilling test holes?

WITNESS KEEFER: I don't recall.

MR. TISDALE: Do you ever do the pre-shift examination?

WITNESS KEEFER: No.

(Pause.)

WITNESS KEEFER: I had done that on pre-shifts, yeah.

MR. TISDALE: Would you say that again?

WITNESS KEEFER: I did make the pre-shift inspection;

some of them, I mean.

MR. TISDALE: Could you explain how you would make a pre-shift examination; what time you would make them?

WITNESS KEEFER: Around 3:00 in the morning.

MR. TISDALE: And that would be for which shift?

WITNESS KEEFER: For the first shift.

MR. TISDALE: What time does the first shift start?

WITNESS KEEFER: They come in around 5:30 and start at 6:00.

MR. TISDALE: What time would you make your pre-shift?

WITNESS KEEFER: I would start around 3:00 in the morning, and then they would come in.

MR. TISDALE: Mr. Keefer, we have a question from the audience concerning the down holes.

Did you ever lose any drill steels in the down holes?

WITNESS KEEFER: No.

MR. TISDALE: When you hit rock at 15 feet and changed holes, how did you get them through this area? Do you use a different drill, or do you use the same drill?

WITNESS KEEFER: If you could get the drill out at the same time, you could use the same one. If you did not, you would have to wait till you could pull it out or

something and use different drill bits.

MR. TISDALE: Are you saying you might leave a piece of drill steel in the hole?

WITNESS KEEFER: No; they come out.

MR. TISDALE: I do not have any more questions.

MR. COOK: Mr. Strain?

MR. STRAIN: Mr. Keefer, what was the size of the hole that went into the abandoned workings -- first went into the abandoned workings off of, I believe, it was Number 7 Heading of Number 8 Breast?

WITNESS KEEFER: The size of the head?

MR. STRAIN: The size of the hole.

WITNESS KEEFER: Thirteen feet.

MR. STRAIN: Thirteen foot hole?

WITNESS KEEFER: Yes -- What hole do you mean?

MR. STRAIN: This is the first hole where the steel was sticking out. I believe you said that as soon as they holed into the old workings that you went out there, and there was a steel sticking out from the hole and it was still in the hole; is that correct?

WITNESS KEEFER: Yes, when they drilled through.

MR. STRAIN: How deep was that hole?

WITNESS KEEFER: Thirteen feet.

MR. STRAIN: Was that a test hole that they were driving there?

WITNESS KEEFER: It was a test hole drilled to see if the water was there.

MR. STRAIN: Was this in preparation for blasting?

WITNESS KEEFER: It had to be drilled before you could blast.

MR. STRAIN: Did anyone inform you that a charge of dynamite had not gone off prior to drilling that test hole?

WITNESS KEEFER: No.

MR. STRAIN: Was there a charge of dynamite in that; was there a blast hole in that face along with the drill hole?

WITNESS KEEFER: There is some potholes from the other shots, yes.

MR. STRAIN: But there was no misfired blast in there when you made your inspection?

WITNESS KEEFER: I do not know.

MR. STRAIN: How long are the cuts that you are blasting?

WITNESS KEEFER: Five feet.

MR. STRAIN: How deep were your test holes?

WITNESS KEEFER: Twenty feet at least.

MR. STRAIN: So, that would mean at least 15 feet in advance of where you were going to be blasting the coal?

WITNESS KEEFER: Yes.

MR. STRAIN: If that were the case, would not the test hole for the prior blast have hit into the abandoned workings?

MR. SHAFFER: Would you repeat the question, please?

MR. STRAIN: Prior to the cut -- well, how many cuts were in that heading; how many cuts were made?

WITNESS KEEFER: I do not know.

MR. STRAIN: How deep was it?

WITNESS KEEFER: I do not know.

MR. STRAIN: Did you feel that if test holes were being drilled, that they would have encountered these abandoned workings prior to the time that they, in fact, encountered them?

WITNESS KEEFER: Yes.

MR. STRAIN: Did you notify anybody about that?

MR. SAVIT: Could you repeat that question again, please?

MR. STRAIN: You found a 13-foot hole -- 12 or 13 feet, which was it?

WITNESS KEEFER: Thirteen feet.

MR. STRAIN: Okay. You found a 13-foot hole. Now, if the persons under your direction had been drilling test holes, would they have drilled into those old workings,for this time, if they have been drilling 20-foot holes?

WITNESS KEEFER: Explain the question again.

MR. STRAIN: This is the third time for this question. You found a 13-foot hole that had drilled into the old workings.

Now, if your people had been drilling 20-foot test holes, they would have drilled into that,prior to that 13-foot hole, would they not?

WITNESS KEEFER: No. The old mine workings had left a bottom bench of coal laying, and we drilled the holes through the bottom bench.

MR. STRAIN: Would this bottom bench be any different than the coal that they were drilling into prior in the normal workings of the Skidmore section?

WITNESS KEEFER: There was more bone in it, and we could not take it. It was no good, there was too much rock in it.

MR. STRAIN: Would it have been wetter than that coal?

WITNESS KEEFER: Not exactly, no.

MR. STRAIN: Would it have been more difficult to drill into?

WITNESS KEEFER: Yes; sometimes it is, sometimes it ain't.

MR. STRAIN: Did you, at this time, make any inquiry as to whether or not the persons under your direction

were drilling the test holes as they had been instructed?

WITNESS KEEFER: Yes, I told them to drill them.

MR. STRAIN: Did you suspect that they may not have been drilling them,at that point?

WITNESS KEEFER: No; I trust my men.

MR. STRAIN: Did you ask them if they had been drilling test holes at this place?

WITNESS KEEFER: Yes.

MR. STRAIN: Did you ask them how far?

WITNESS KEEFER: Yes.

MR. STRAIN: What did they say?

WITNESS KEEFER: Twenty feet to whatever the -- at least 20 feet.

MR. STRAIN: How did you determine that they had been drilling into the lower portion?

WITNESS KEEFER: Because I could see the holes.

MR. STRAIN: When did you see them?

WITNESS KEEFER: Well, that was the shift before that, on my shift, the second shift.

MR. STRAIN: You mean,you saw them before the time that they actually drilled into the old workings?

WITNESS KEEFER: Yes.

MR. STRAIN: How about afterwards?

WITNESS KEEFER: Well, I saw the hole when they drilled through.

MR. STRAIN: Did you see the holes when you did drill through into those old workings?

WITNESS KEEFER: Yes.

MR. STRAIN: How many holes did you see?

WITNESS KEEFER: Well, right there, they drilled two.

MR. STRAIN: Where were your people most concerned about finding the water?

WITNESS SHAFFER: Could we have a clarification of that question, please? We did not understand it.

MR. STRAIN: I do not think I can make it any simpler, Mr. Shaffer.

Where were your people most concerned about finding the water?

MR. SAVIT: Mr. Strain, do you mean where in the mine, where in the west side, up,downstream; what do you mean "where"? It is a big mine.

MR. STRAIN: We were in the West Skidmore section, and we do have people who were drilling ahead testing for water.

Where did they think they were most likely to find the water?

WITNESS KEEFER: It would be above you, to the side of you, going up the breast.

MR. STRAIN: Have you ever discussed with people

under your direction the possibility of finding water below them?

WITNESS KEEFER: Yes.

MR. SHAFFER: Again, are you referring to going up the breast or the gangway?

MR. STRAIN: In the gangway, have you ever discussed with those people the possibility of finding water below them?

WITNESS KEEFER: Yes, all the time.

MR. STRAIN: Did you say that there was a possibility of finding water below the gangway?

WITNESS KEEFER: Yes.

MR. STRAIN: On the shift before the inundation, was the timbering work completed on that shift?

WITNESS KEEFER: No.

MR. STRAIN: How much work was still to be done?

WITNESS KEEFER: There was two weeks of work. The collar had to be put on, and the pan had to be put on and had to be drilled ahead.

MR. STRAIN: The work before they started drilling ahead, how much time would be involved in that work?

MR. SHAFFER: Again, a point of clarification; again, where are we discussing, the gangway, the breast, or whatever?

MR. STRAIN: I am talking about the gangway.

This is in the gangway of the West Skidmore section.

In the shift before the inundation, was the timbering completed there?

WITNESS KEEFER: On the first shift, I do not know; that was not my shift. I do not know.

MR. STRAIN: On your shift, I believe, you testified that your shift was timbering?

WITNESS KEEFER: It was not completed, no.

MR. STRAIN: They had not completed the timbering?

WITNESS KEEFER: No.

MR. STRAIN: How many more hours would it take to complete that timbering before drilling could start?

WITNESS KEEFER: I do not know.

MR. STRAIN: How long would it normally take to timber after you would load coal?

WITNESS KEEFER: It is just according to how much trouble you have.

MR. STRAIN: It is just according to what?

WITNESS KEEFER: Like what kind of troubles you have.

MR. STRAIN: What kind of troubles were they having in that section?

WITNESS KEEFER: They were not having any, but, sometimes, when you are digging a hitch, we might hit a little harder rock; a lot of different things.

MR. STRAIN: You anticipate that it would take eight more hours to timber that section before they could start drilling?

WITNESS KEEFER: I do not know.

MR. STRAIN: But there was some timbering work to do?

WITNESS KEEFER: Yes.

MR. STRAIN: In the West Skidmore Gangway, from Chute Number 13 on, how long did it generally take to drill the test holes?

WITNESS KEEFER: I do not know.

MR. STRAIN: Were you ever on a shift where they were drilling test holes in the West Skidmore Gangway?

WITNESS KEEFER: Yes.

MR. STRAIN: From Number 13 on?

WITNESS KEEFER: Yes.

MR. STRAIN: What was the shortest time it ever took?

WITNESS KEEFER: I do not know.

MR. STRAIN: Was Mr. John Madenford ever under your direction?

WITNESS KEEFER: Yes.

MR. STRAIN: Was he on the West Skidmore Gangway when he was under your direction?

WITNESS KEEFER: Yes.

MR. STRAIN: Did you ever observe him drilling test holes?

WITNESS KEEFER: Yes.

MR. STRAIN: Where was he drilling them when you observed him?

WITNESS KEEFER: Could you repeat the question?

MR. STRAIN: Well, which holes was he drilling when you observed him?

WITNESS KEEFER: All of them.

MR. STRAIN: Were you there while he was drilling all the holes?

WITNESS KEEFER: At times.

MR. STRAIN: How long did it take?

WITNESS KEEFER: I do not recall now.

MR. STRAIN: Did you see him drill a hole down the pitch?

WITNESS KEEFER: At times.

MR. STRAIN: Do you specifically remember seeing him drill a hole down the pitch?

WITNESS KEEFER: If he was not doing it, one of the other men was doing it.

MR. STRAIN: But he was present while the hole was being drilled down the pitch?

WITNESS KEEFER: I imagine, yes.

MR. STRAIN: That is all my questions.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Keefer, I am curious about one thing. Do you know Mr. Reinoehl?

WITNESS KEEFER: Yes.

MR. TISDALE: Does he work for you?

WITNESS KEEFER: He works for the company, yes.

MR. TISDALE: Does he work under your supervision?

WITNESS KEEFER: He did.

MR. TISDALE: Was he employed on your shift while you were driving Number 8 Breast?

WITNESS KEEFER: Yes.

MR. TISDALE: Mr. Reinoehl testified to us, the best I can recall, under oath that, as you drove Number 8 Breast in the vicinity of the 7 or 8 Miner Heading, you were drilling test holes along the left rib, among the other test holes; and when that miner heading was turned, the first few cuts--at least the cut that was taken when the water was encountered -- they had not drilled test holes in the face of that miner heading.

Now, are you telling me now that you did drill test holes in the face of the miner heading?

WITNESS KEEFER: I do not know.

MR. TISDALE: How often do you examine the faces of the working places on your shift?

WITNESS KEEFER: Once and sometimes twice, if I get

around.

MR. TISDALE: When you examine the faces of those places, what are some of the things you are looking for?

WITNESS KEEFER: I am looking for gas; I am looking for water. I am looking to see if there is any loose rock; how the timber is, if the timber is all right.

MR. TISDALE: Is part of your examination to examine for test holes?

WITNESS KEEFER: Yes.

MR. TISDALE: But, you do not know whether they were drilled at the face of that miner heading that intersected the water?

WITNESS KEEFER: I do not remember.

MR. TISDALE: I have no further questions.

MR. COOK: Mr. Phares?

MR. PHARES: Mr. Keefer, Mr. Madenford, as you probably know, has testified in this hearing previously. As best as I can recall, his sworn testimony was that it was not his usual practice to drill holes in the low side rib while driving the gangway.

Do you have any knowledge whether Mr. Madenford, in fact, drilled holes in the low side of the gangway as he was coming up the West Skidmore?

WITNESS KEEFER: Yes.

MR. PHARES: You did personally observe Mr.

Madenford drilling?

WITNESS KEEFER: I seen him drilling.

MR. PHARES: Is that pretty firm in your mind?

WITNESS KEEFER: Well, it is -- yes.

MR. PHARES: All right. If it is clear in your mind, then, I want you to tell us exactly where he was drilling that hole, at which chute.

WITNESS KEEFER: That I do not know.

MR. PHARES: It is clear in your mind that he was drilling it, but you cannot tell us where; is that correct?

WITNESS KEEFER: Yes.

MR. PHARES: Can you remember when?

WITNESS KEEFER: No.

MR. PHARES: Can you remember how long ago?

WITNESS KEEFER: No.

MR. PHARES: You have no idea in terms of time; is that correct?

WITNESS KEEFER: Right.

MR. PHARES: Mr. Keefer, I want you to know and I want your attorney to know that we have had conflicting testimony on the record on the drilling of these down holes; and that I am going to recommend to my supervisors that the entire transcript of this proceeding be forwarded to the Justice Department for determination by them whether there

has been any perjury in this hearing.

After having said that, is it still your testimony that you personally did observe George Madenford drilling test holes in the low side rib?

MR. SAVIT: Mr. Keefer advises me to say, for the record, on his behalf, that he respectfully declines to answer pursuant to his rights under the First, Fifth, and Fourteenth Amendments.

MR. PHARES: I believe that statement, Mr. Savit, could not be heard in the back of the room.

MR. SAVIT: Mr. Keefer advises me, as his Counsel, to advise you on his behalf that he respectfully declines to answer pursuant to his rights under the First, Fifth, and Fourteenth Amendments.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Mr. Keefer, do you know the number of drill steels or the approximate number of drill steels that were available to the working men in each working place?

MR. SAVIT: Mr. Keefer declines to answer that question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. VICINELLY: An air drill was used to drill the holes; is that correct?

MR. SAVIT: Mr. Keefer declines to answer that

question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. VICINELLY: Once the test holes are drilled and the cut blasted, could the lower test holes be located?

MR. SAVIT: Mr. Keefer declines to answer that question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the Constitution.

MR. COOK: Could you speak up, Mr. Savit? We cannot hear you.

MR. SAVIT: Mr. Keefer declines to answer that question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. VICINELLY: What was the distance from 18 Chute to the face of the gangway, approximate feet?

MR. SAVIT: Mr. Keefer declines to answer that question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

Mr. Vicinelly, I think I might advise you that my client has advised me that he does not wish to answer any further questions.

MR. STRAIN: I would like to have on record all the questions which he refuses to answer.

MR. SAVIT: Can we just have these read into the record?

MR. STRAIN: Fine. I would like the refusal right

after the questions are read, also.

MR. VICINELLY: How far back do you go before you would start the 19th Chute?

MR. SAVIT: Mr. Keefer declines to answer that question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. VICINELLY: That is all the questions I have.

MR. COOK: Since you are speaking for your client, Mr. Savit, we have several questions from the audience. We are going to enter these questions into the record. It will be stated that you have refused to answer these questions.

MR. SAVIT: That is fine; I will agree to that.

MR. COOK: I would like to take a 15-minute recess at this time.

(Recess.)

MR. COOK: May we have your attention, please?

Mr. Savit, Mr. Keefer has not been dismissed as a witness yet. Would you bring him back here?

This hearing will now come to order.

Mr. Keefer, for the record, and also for Co-Counsel, I would like to state that the warning that you received from the Panel was not meant to be an intimidation, but it has been very clear throughout the past two days, there is conflicting testimony.

We want to make certain that you are aware of that

and of the seriousness that this Panel takes to answers that are given. It was not meant to intimidate you in any manner. We did want to add that for the record.

We have one question from the audience that the person who submitted the question felt real strongly that it should be read into the record. I will try to do that now.

This question was directed to you, Mr. Keefer, from a member of the audience, and it states, "On the mine map you examined, which mine do you recall was shown by the dotted lines; that is the Weaver, or the Bush, or the Miller?"

MR. SAVIT: Mr. Chairman, may I make a statement?

MR. COOK: Yes.

MR. SAVIT: Mr. Chairman, as you pointed out in your opening statement when we convened, Mr. Phares did read a warning to Mr. Keefer regarding his concern about conflicting testimony.

We believe that that warning has shifted the character of the investigation from an informational and investigatory proceeding to an accusatory proceeding.

The Kocher Coal Company has, from the time this accident took place, attempted to cooperate fully with the state and federal investigations and is gravely concerned that the cause of the accident be determined; and that methods be found so that similar occurrences will be prevented in the future.

However, in view of the change in proceedings and in view of the fact that we have been denied the right of cross-examination and the right to question the evidence as presented by you and as characterized by you, we have very reluctantly advised those of the prospective witnesses who are here that they exercise their rights pursuant to the First, Fifth, and Fourteenth Amendments and refuse to answer any and all further questions, at this time.

I would stress, however, just in closing, that that advice, both by myself and by Mr. Shaffer, was given and was accepted quite reluctantly by both Kocher Coal Company and its employees; and that our desire to determine the cause of the accident remains undiminished, and we await your findings in this matter.

Therefore, in answer to the question you asked, I have to say that, pursuant to my advice and pursuant to his statement, Mr. Keefer respectfully declines to answer that question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. COOK: It is noted, for the record.

I would like to repeat, then, the question from the audience that the member felt very strongly should be read into the record.

"On the mine map that you examined, which mine do you recall was shown by the dotted lines; that is the

Weaver, Bush, or Miller mine?"

MR. SAVIT: Mr. Keefer declines to answer that question pursuant to his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. COOK: Speaking for the Mining Enforcement and Safety Administration, we have certain questions that were written out; possibly,all of them have not been asked of Mr. Keefer. They will be placed in the record.

Would the State have any questions at this time?

MR. SHOBER: Mr. Keefer, this is just something I was thinking about while listening to the testimony.

In regard to the test hole drill pattern, you have mentioned before how many holes you drilled at the face and what your pattern did consist of.

Now, in the event that the face became damp or moist,at any time, and the area that did become damp or moist was outside of the pattern area, would that cause you to fluctuate or change your pattern in any way?

MR. SAVIT: Mr. Keefer declines to answer that question pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. SHOBER: That is all I have.

MR. COOK: Thank you, Mr. Keefer.

(Witness excused.)

MR. COOK: At this time, we would like to have Mr. Leroy Manhart, please.

Whereupon,

LEROY MANHART

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name and spell it?

WITNESS MANHART: Leroy Manhart, M-a-n-h-a-r-t.

MR. PHARES: What is your address, please?

WITNESS MANHART: 715 Market Street, Ashland.

MR. PHARES: Mr. Manhart, before we begin the questioning, I want you to understand that this is a formal investigatory hearing; a written transcript is being made of the statements taken.

You have the right to have Counsel present while you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights that I have just explained to you?

WITNESS MANHART: Yes.

MR. PHARES: Mr. Manhart, for the record, I would like to develop one point before we begin the questioning by the Panel.

I believe you were subpoenaed for earlier in the week; is that correct?

WITNESS MANHART: Yes.

MR. PHARES: What date were you subpoenaed to attend?

WITNESS MANHART: Tuesday.

MR. PHARES: Tuesday of this week. I believe I am stating correctly that you did not appear Tuesday; is that correct?

WITNESS MANHART: That is correct.

MR. PHARES: And you did not appear yesterday?

WITNESS MANHART: That is correct.

MR. PHARES: And it is my understanding that there are some extenuating circumstances, and I would like you to explain them for the record.

WITNESS MANHART: My father-in-law was dying; I was called to the hospital, and he did die yesterday.

MR. PHARES: All right, fine; thank you.

Mr. Cook?

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Leroy, are you an employee of the Kocher Coal Company at the present time?

WITNESS MANHART: Yes.

MR. VICINELLY: Were you working at the Kocher Mine, the Porter Tunnel Mine, prior to the break-in on March 1?

WITNESS MANHART: Yes.

MR. VICINELLY: How long have you worked in the anthracite mines?

WITNESS MANHART: Around 18 years.

MR. VICINELLY: Are you considered as a lead miner?

WITNESS MANHART: Yes.

MR. VICINELLY: How long have you worked at the Porter Tunnel Mine?

WITNESS MANHART: Five years.

MR. VICINELLY: Were you working in the West Skidmore section on March 1, the date of break-in?

WITNESS MANHART: Yes.

MR. VICINELLY: Where were you working?

WITNESS MANHART: Number 12 Breast.

MR. VICINELLY: Who were you working with?

WITNESS MANHART: Albert Carl and John Kornaski.

MR. VICINELLY: What kind of work were you performing?

WITNESS MANHART: Robbing.

MR. VICINELLY: Did you ever work in the gangway in the West Skidmore?

WITNESS MANHART: No.

MR. VICINELLY: Did you ever work in the monkey?

WITNESS MANHART: No.

MR. VICINELLY: How long have you worked in the West Skidmore?

WITNESS MANHART: Since they started.

MR. VICINELLY: Did you ever visit the face of the gangway or the monkey during the time you were working at the West Skidmore?

WITNESS MANHART: Three days before it happened.

MR. VICINELLY: At that time, did you observe them drilling test holes?

WITNESS MANHART: They just had finished when I got there.

MR. VICINELLY: Finished drilling test holes?

WITNESS MANHART: Yes.

MR. VICINELLY: Did you see the test holes that were drilled?

WITNESS MANHART: Two of them.

MR. VICINELLY: Which two test holes did you see?

WITNESS MANHART: One straight ahead, and one on the upper rib.

MR. VICINELLY: Did you look for the test hole?

WITNESS MANHART: No.

MR. VICINELLY: Do you have knowledge if that bottom hole was drilled or not?

WITNESS MANHART: No.

MR. VICINELLY: During the time that you were working at the West Skidmore, do you have any knowledge,or did you ever hear anyone complain, that there were not sufficient drill steels to drill the test holes?

WITNESS MANHART: No.

MR. VICINELLY: What type of drill was used to drill the test holes?

WITNESS MANHART: I do not know; we did not drill any test holes where I was at.

MR. VICINELLY: Do you know what type of drills were used at the gangway; was it an air drill, an electric drill, or --

WITNESS MANHART: Air drill.

MR. VICINELLY: When you were robbing, did you use an air drill?

WITNESS MANHART: Yes.

MR. VICINELLY: Is that the similar drill that

would be used at the face and gangway?

WITNESS MANHART: Yes.

MR. VICINELLY: If you had problems that your drill broke, were there extra drills available, or what did you do?

WITNESS MANHART: They usually had drills there; but if they did not, they sent them out and got them fixed. There was usually extra drills there.

MR. VICINELLY: Were you ever in the monkey while the men were working?

WITNESS MANHART: No.

MR. VICINELLY: Did you visit 17 Chute, the slant where Mr. Adley was working?

WITNESS MANHART: No.

MR. VICINELLY: I have no further questions, Joe.

MR. COOK: Mr. Manhart, I believe you said you had worked at the Porter Tunnel Mine for about five years?

WITNESS MANHART: Yes.

MR. COOK: When did you start to work in the West Skidmore Gangway section?

WITNESS MANHART: When they started.

MR. COOK: When they started out in the very beginning?

WITNESS MANHART: Yes.

MR. COOK: When they started out in the very

beginning, what kind of work were you doing?

WITNESS MANHART: Driving the breast.

MR. COOK: You were driving the breast?

WITNESS MANHART: Actually, I was not in the conveyor gangway. The first breast I started went up in front of the conveyor gangway.

MR. COOK: Went up in front of the conveyor gangway. So, you drove breast for awhile, and,now, you are pulling pillars; that is your primary job. Are you still developing the breast, also, as a part of pulling the pillars?

WITNESS MANHART: No; that is all I did then was rob, pull the pillars.

MR. COOK: All you did was rob.

Have you ever heard any discussion from your fellow workmen about drilling test holes?

WITNESS MANHART: I heard them talk they drilled them.

MR. COOK: That they did drill them?

WITNESS MANHART: Yes.

MR. COOK: Did they follow the pattern outlined by the company?

WITNESS MANHART: Yes.

MR. COOK: What was that pattern; are you aware of it, Mr. Manhart?

WITNESS MANHART: What do you mean, the length?

MR. COOK: No; just the number of holes, the position of the holes, and the length.

WITNESS MANHART: They drill straight ahead, and they flank them.

MR. COOK: They flank them?

WITNESS MANHART: Yes.

MR. COOK: Are you aware of when they started the test drilling patterns in the West Skidmore section?

WITNESS MANHART: I do not know when they started.

MR. COOK: When the section first started up, were they drilling the test holes then, when you first started the section, driving the gangway, the monkeyways, and the breasts? Were you drilling test holes from the very beginning?

WITNESS MANHART: To my knowledge, I do not know.

MR. COOK: At some time later on, then, this drilling pattern was started?

WITNESS MANHART: Yes.

MR. COOK: My question was if you remembered whether it was around 5, 6, 7, or 8 Chute that this pattern was started; do you remember?

WITNESS MANHART: I do not know, because I was not working in there at that time.

MR. COOK: At that time?

WITNESS MANHART: I was above on the drag.

MR. COOK: What type of training have you received in the way of safety in the Porter Tunnel Mine, Mr. Manhart?

WITNESS MANHART: We were always taught safety there.

MR. COOK: Specific classroom safety, or was it more on-the-job safety?

WITNESS MANHART: On the job and, I guess, the job foreman, mostly.

MR. COOK: Had you ever participated in an evacuation drill; how you would escape from the mine in case of an emergency?

WITNESS MANHART: Not that I remember.

MR. COOK: Did you know where the escapeway was and how to get to it?

WITNESS MANHART: Yes.

MR. COOK: You mentioned in the face of the gangway section, that you did notice a hole drilled straight ahead and one in the high side rib?

WITNESS MANHART: Yes.

MR. COOK: But you did not notice one in the low side rib?

WITNESS MANHART: No.

MR. COOK: Was there any particular reason why you

would notice two of the holes and not the other one?

WITNESS MANHART: I was not looking for them. I was standing there to help them put laggings up and I just noticed the holes; that is all.

MR. COOK: Was this about three days prior to the accident?

WITNESS MANHART: Yes.

MR. COOK: What does a coal run mean to you, Mr. Manhart?

WITNESS MANHART: It is falling away.

MR. COOK: Did you have any problems with coal running, to your knowledge, in the West Skidmore Gangway section, in the gangway in particular?

WITNESS MANHART: Not to my knowledge.

MR. VICINELLY: Mr. Shober?

MR. SHOBER: Mr. Manhart, did I understand you to say that you were a drag operator on the saddle?

WITNESS MANHART: I worked on that job. I was not the operator, but I worked on that job.

MR. SHOBER: How many people worked with you on that crew, just yourself?

WITNESS MANHART: No, up to one.

MR. SHOBER: Did you ever remember having a misfired hole up in that area?

WITNESS MANHART: No.

MR. SHOBER: Did you notice the condition of the coal, the color ever changing? That is, I do know thickness would be variable at places, but, I mean, is it wet, dry, or what have you?

WITNESS MANHART: No, we have dry coal up there.

MR. SHOBER: Dry coal at all times?

WITNESS MANHART: Yes.

MR. SHOBER: That is all I have.

MR. VICINELLY: Jack?

MR. TISDALE: Mr. Manhart, did you work in Number 8 Breast as it was being driven up?

WITNESS MANHART: No.

MR. TISDALE: Did you work in any of the breasts as they were being driven?

WITNESS MANHART: Yes; 1 and 3.

MR. TISDALE: After 1 and 3?

WITNESS MANHART: That is when we got up on the flat, and we started on the drag.

MR. TISDALE: Do you remember the occasion when the water was encountered in Number 8 Breast?

WITNESS MANHART: Yes.

MR. TISDALE: Were you in the area of Number 8 Breast --

WITNESS MANHART: I was above it.

MR. TISDALE: You were above it?

WITNESS MANHART: Above it.

MR. TISDALE: I believe at that time when they encountered the water, they were starting a miner heading off of Number 8 Breast.

Was that a cutter, too?

WITNESS MANHART: I believe so.

MR. TISDALE: How far above that point were you -- was your work station at that time -- how far from that Number 8 miner heading, or Number 7; whichever it was?

WITNESS MANHART: It would have been another miner heading, so I guess around 60 feet; 50 or 60 feet.

MR. TISDALE: Do you know whether they were drilling test holes prior to finding the water at Number 8?

WITNESS MANHART: I don't know.

MR. TISDALE: I don't have anymore questions.

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Manhart, when you were at the face of the gangway, three days prior to the inundation, who were the persons in the gangway then?

WITNESS MANHART: Philip Sabatino -- I don't know the other two guys. I don't know their names.

MR. STRAIN: What were they doing?

WITNESS MANHART: They were putting laggings above the timber.

MR. STRAIN: You said you noticed two holes. What

did the holes look like?

WITNESS MANHART: Regular drill holes.

MR. STRAIN: Were they marked in any way?

WITNESS MANHART: No.

MR. STRAIN: Were they timbering at this time?

WITNESS MANHART: Yes. They were putting laggings in.

MR. STRAIN: Do you know if this would have been prior or after they had prepared the blast?

WITNESS MANHART: They were not going to blast then. It was almost at the end of the shift, and I was in there to help them with it.

They didn't fire that night.

MR. STRAIN: Were they prepared to fire?

WITNESS MANHART: No.

MR. STRAIN: When you were at the face of the gangway, did you see any water there?

WITNESS MANHART: A drop or two that you would find anywhere.

MR. STRAIN: Are you still an employee of the Kocher Coal Company?

WITNESS MANHART: Yes.

MR. STRAIN: That is all the questions I have.

MR. VICINELLY: Bob?

MR. PHARES: I am going to defer to Mr. Tisdale for

one line of questioning.

MR. TISDALE: Mr. Manhart, could you describe where you were working, and as best you can remember what happened the day the water broke through and flooded out the mine?

WITNESS MANHART: We were working right at Number -- the 12th Breast, right at Number 2 Head. We felt a rush of air, a strong rush of air, and we ran over and up 13 Breast. That is it. That is all I know.

MR. TISDALE: Number 13 Breast, you got above the water then?

WITNESS MANHART: Yes.

MR. TISDALE: How high did the water get?

WITNESS MANHART: Right above Number 2 miner head.

MR. TISDALE: How long did it take the water to go down?

WITNESS MANHART: Almost as fast as it came up.

MR. TISDALE: Up, and right back down?

WITNESS MANHART: Yes.

MR. TISDALE: Then, where did you go?

WITNESS MANHART: Then we heard the boys hollering, and we went back down to them.

MR. TISDALE: Where were they?

WITNESS MANHART: They were at the battery at Number 2 Breast.

MR. TISDALE: Where was the battery?

WITNESS MANHART: At Number 2 Head.

MR. TISDALE: Did you get entrapped in the water at all?

WITNESS MANHART: No.

MR. TISDALE: Have you worked at the mine since it went back to work?

WITNESS MANHART: Not since it went back to work, no.

MR. TISDALE: Did you participate in the recovery efforts?

WITNESS MANHART: Yes.

MR. TISDALE: When did you stop working?

WITNESS MANHART: About the 17th of March.

MR. TISDALE: So, you have not been at the mine since the 17th of March?

WITNESS MANHART: No.

MR. TISDALE: Are you under the care of a doctor at the present time?

WITNESS MANHART: Yes.

MR. TISDALE: Do you plan on going back to work?

WITNESS MANHART: I don't know.

MR. TISDALE: The shift that they intersected the water at Number 8 Breast; was that your -- were you working that shift when they found that they had water there?

WITNESS MANHART: Yes.

MR. TISDALE: Do you remember what occurred then?

WITNESS MANHART: They were starting to drill holes, long holes, test holes, when the guy came around up to me, and he told me that they had hit water.

So, he went down and got the rest of them out the gangway. We stayed where we were at, because we were above it.

MR. TISDALE: Do you know whether that was the first test hole that they had drilled or not?

WITNESS MANHART: I don't know.

MR. TISDALE: I have no further questions.

MR. PHARES: We have a question from the audience. To the best of your knowledge, was it a practice to drill holes in the low side rib of the gangway or monkey?

WITNESS MANHART: I can't answer. I didn't work in there.

MR. PHARES: And is it your testimony that, with the exception of the incident that you have already described three days prior to the accident, you did not go down to the gangway?

WITNESS MANHART: Not into the faces.

MR. PHARES: Another question from the audience: was it necessary to wear rain gear?

WITNESS MANHART: Not where I was at.

MR. PHARES: I have no further questions, but I think that there might be some follow-up on this other question

MR. COOK: One question from the audience, Mr. Manhart: were you at a meeting prior to this hearing called by the company officials?

WITNESS MANHART: No.

MR. COOK: There is another question here regarding the wearing of rain suits or rain gear. Are you aware of anyone in the West Skidmore Gangway section on your shift wearing rain gear?

WITNESS MANHART: Not that I know of.

MR. VICINELLY: Thank you, Leroy.

(Witness excused.)

MR. COOK: At this time, we would like to have Mr. Calvin Brown, please.

Whereupon,

CALVIN BROWN

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name?

WITNESS BROWN: Calvin Brown.

MR. PHARES: What is your address, Mr. Brown?

WITNESS BROWN: 193 South Main Street, Pine Grove.

MR. PHARES: Mr. Brown, before we begin the questioning, I want you to understand that this is a formal, investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have counsel present while you

are testifying. You may consult with counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand the question, you have the right to have it clarified before you give an answer.

Do you understand the rights that I have just explained to you?

WITNESS BROWN: I do.

MR. PHARES: Thank you.

MR. COOK: Mr. Brown, how long have you worked in the mines?

WITNESS BROWN: Approximately three years.

MR. COOK: How long have you worked at the Porter Tunnel Mine?

WITNESS BROWN: I worked there two times; eight months the first time, and the second time, from April, 1974, to January, 1977.

MR. COOK: What is your occupation at the Porter

Tunnel Mine?

WITNESS BROWN: I was a laborer.

MR. COOK: You were a laborer prior to the flooding, the inundation?

WITNESS BROWN: Yes.

MR. COOK: What section were you working on?

WITNESS BROWN: West Skidmore.

MR. COOK: How long had you worked on the West Skidmore Gangway section?

WITNESS BROWN: About 14 months.

MR. COOK: About 14 months. Do you recall at about what chute the gangway and the monkey way were at when you started to work there?

WITNESS BROWN: They started at the West Skidmore.

MR. COOK: They started right at the mouth of the Skidmore.

WITNESS BROWN: Right.

MR. COOK: At what areas did you work in the West Skidmore Gangway section?

WITNESS BROWN: 1 and 2 Breast, Number 3 Breast. I was up where the vein turned over, up on the flat. I worked Number 14 Chute. The last place I worked was Number 14 Chute.

MR. COOK: Did you ever have occasion to work in the gangway or the monkey airway?

WITNESS BROWN: No. One night, I was in the gangway,

and one night, I was in the monkey.

MR. COOK: About approximately when would that have been?

WITNESS BROWN: The second week in January.

MR. COOK: About the second week in January?

WITNESS BROWN: Right.

MR. COOK: While you were working in the gangway or in the monkey airway, were test holes drilled while you were there?

WITNESS BROWN: No, sir.

MR. COOK: What type of work were you doing in the gangway the night you were there?

WITNESS BROWN: We were just drilling rock.

MR. COOK: Just drilling rock?

WITNESS BROWN: Right.

MR. COOK: Had the seam started to pinch out?

WITNESS BROWN: Yes, that is right.

MR. COOK: When you were in the monkey way, did you have occasion to see test holes drilled there?

WITNESS BROWN: No, I didn't. The night I was there, we just cleaned it off. They had just fired on the other shift.

MR. COOK: Working in the breast, did you drill test holes there?

WITNESS BROWN: Yes, we did.

MR. COOK: What was the location of the test holes

you drilled in the breast? How many holes did you drill?

WITNESS BROWN: Three.

MR. COOK: Where did you drill those holes?

WITNESS BROWN: One on the right flank and one on the left flank and one right up through the middle.

MR. COOK: How deep did you drill those holes?

WITNESS BROWN: We used to always drill 25 feet.

MR. COOK: Did you start your first mining at the Porter Tunnel Mine, or had you worked in a mine --

WITNESS BROWN: Yes, I did; in 1971.

MR. COOK: Your first mining was at the Porter Tunnel Mine?

WITNESS BROWN: That is right.

MR. COOK: What type of safety training did they give you when you were first employed?

WITNESS BROWN: None that I can recall.

MR. COOK: Being a new man, having never worked in a mine before, what type of work did you start out doing?

WITNESS BROWN: We were cleaning up an old gangway.

MR. COOK: Cleaning up, re-timbering?

WITNESS BROWN: Yes.

MR. COOK: Were you ever given training in the use of the self rescuer?

WITNESS BROWN: Yes, I was.

MR. COOK: Were you ever given training in the rib

and roof control plan for that mine?

WITNESS BROWN: No, I wasn't.

MR. COOK: Did you ever see a roof control plan for that matter?

WITNESS BROWN: No.

MR. COOK: Had you ever participated in an evacuation drill of the mine, how you would escape from the mine in case of an emergency?

WITNESS BROWN: No.

MR. COOK: Were you working in the West Skidmore Gangway section when the Number 8 Breast cut into the old Weaver Mine?

WITNESS BROWN: Yes, I was.

MR. COOK: What shift were you working on when this occurred? Did it occur on your shift?

WITNESS BROWN: Yes, it did.

MR. COOK: Could you relate to us what happened on that shift?

WITNESS BROWN: Well, first they said when they came out that they fired, and that the cut went the other way. So, when our shift went in, and our Raymond Reinoehl drilled ahead, and hit the water.

When he hit the water, then Raymond Keefer told us that everybody should get out. We all got out, and we went home then.

MR. COOK: To your knowledge, had test holes been drilled in advance of the place that was shot and shot through?

WITNESS BROWN: Not to my knowledge, no.

MR. COOK: Working in the breast, had you tapped into the old Weaver Mine, and other breasts after that?

WITNESS BROWN: Yes, we did; Number 14 Breast.

MR. COOK: Did you ever experience any difficulty or anything unusual while you were doing that?

WITNESS BROWN: Yes, we did.

MR. COOK: Would you relate to us, please, what that was?

WITNESS BROWN: We were at the third heading, Number 14 Breast, and we drove our head into the east, and we started our one to the west, and then we drilled long holes up to hit the water, and we hit the water approximately 49 feet, but we couldn't keep the holes clean.

Then, we got our steels stuck, so then we quit drilling.

MR. COOK: You quit drilling then?

WITNESS BROWN: Right.

MR. COOK: Did you quit advancing the face of the breast?

WITNESS BROWN: No, we didn't.

MR. COOK: You kept mining the face of the breast?

WITNESS BROWN: Yes; we drilled a pillar hole.

MR. COOK: Did you experience any difficulty in drilling this pillar hole, then?

WITNESS BROWN: When we got within about nine feet, water was coming out the holes that we had drilled. It came out between five and seven feet.

MR. COOK: Did the workmen on that section express themselves to the foreman, that they had some concern for their safety while working in this manner?

WITNESS BROWN: Yes, we did.

MR. COOK: What was the foreman's reply?

WITNESS BROWN: He said he got his orders from outside.

MR. COOK: Who was the foreman, Mr. Brown?

WITNESS BROWN: Mr. Merwine and Mr. Keefer.

MR. COOK: Both foremen?

WITNESS BROWN: Right.

MR. COOK: Were they both present at this time when you heard this?

WITNESS BROWN: No; both separate instances.

MR. COOK: On separate instances that they both said essentially the same thing?

WITNESS BROWN: Right.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: When you referred to the long hole, I believe you used 49 feet. Had this hole holed through into

abandoned workings?

WITNESS BROWN: Yes, it did.

MR. VICINELLY: At what breast was this?

WITNESS BROWN: Number 14.

MR. VICINELLY: When it holed through, was there water coming out of that hole?

WITNESS BROWN: Yes, there was.

MR. VICINELLY: How long did the water come out, do you have any idea? One shift, two shifts, a couple of hours?

WITNESS BROWN: We couldn't keep the holes clean. As soon as we pulled the steels out, they would close up.

MR. VICINELLY: Why would they close up?

WITNESS BROWN: They would get dirt in them. Water washed the dirt in them.

MR. VICINELLY: How long did it take to tap that water off?

WITNESS BROWN: We never tapped it off.

MR. VICINELLY: You never tapped it off?

WITNESS BROWN: Not that I know of.

MR. VICINELLY: Was that holed through?

WITNESS BROWN: Yes, it was.

MR. VICINELLY: When you holed through, was there water coming out of it?

WITNESS BROWN: Yes, there was.

MR. VICINELLY: How much water was there coming out of it? A good stream --

WITNESS BROWN: Not at first. It was only a trickle at first, at 49 feet.

MR. VICINELLY: Once you holed it through, was there a lot of water coming out --if you could give me an idea of how much water was there.

WITNESS BROWN: Well, the hole kept blocking up.

MR. VICINELLY: I am referring to when you -- if I understood you correctly, you finally blasted it through or mined it through?

WITNESS BROWN: No. We were between seven and nine feet the last day I worked.

MR. VICINELLY: I'm sorry; I misunderstood you, then. When you were working in that breast, who was the lead miner?

WITNESS BROWN: Donald Shoffler.

MR. VICINELLY: Was there anyone else working with you?

WITNESS BROWN: Ralph Renninger.

MR. VICINELLY: When you encounter problems drilling test holes, what would you do?

WITNESS BROWN: I don't understand the question.

MR. VICINELLY: Did you ever have problems drilling test holes?

WITNESS BROWN: We had steels stuck a couple times.

MR. VICINELLY: When the steel stuck, what did you do?

WITNESS BROWN: Tried to get them out.

MR. VICINELLY: Were you able to get them out?

WITNESS BROWN: Sometimes, but the third hole, 49 feet, we got them stuck in and couldn't get them out.

MR. VICINELLY: When the water was coming out that hole, was the steel stuck in it?

WITNESS BROWN: Yes.

MR. VICINELLY: Were there any additional holes drilled to tap that water off?

WITNESS BROWN: No.

MR. VICINELLY: Did you ever have problems getting drill steels or having a sufficient number of drill steels?

WITNESS BROWN: No. We just went and got some off of somebody else.

MR. VICINELLY: No other questions.

MR. COOK: Mr. Shober?

MR. SHOBER: Mr. Brown, did you always drill test holes before drilling and firing a cut?

WITNESS BROWN: Yes, we did.

MR. SHOBER: Did you always drill test holes in the ribs?

WITNESS BROWN: We always drilled two flank holes, and one straight ahead.

MR. SHOBER: What was the depth of the test holes?

WITNESS BROWN: 25 feet.

MR. SHOBER: Was it always 25 feet?

WITNESS BROWN: Yes, except for when we were trying to drain that water.

MR. SHOBER: Do you remember where you started drilling test holes, at what area, what chute that may have been?

WITNESS BROWN: Number 8, Number 7.

MR. SHOBER: Now then, do you remember when the test drill hole either penetrated abandoned workings off of Number 8 Breast, or the cut was fired, and then the water was drained off? Do you remember exactly what happened that day?

WITNESS BROWN: Yes, I do.

MR. SHOBER: See, there has been some different things mentioned during the testimony. If I remember right, one of the men that worked in the area said there was a cut fired, and the water was drained off.

Somebody else said that there was a hole that penetrated the abandoned workings, and then the water was drained off.

Can you explain that?

WITNESS BROWN: When the first shift came out, they said they fired, and the cut went the other way. So, when we

went in on that shift, Raymond Reinoehl drilled a test hole, and he hit the water. He started to drain it off.

MR. SHOBER: Thank you, Mr. Brown.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Brown, I understand that in the 14 Breast, as it was being advanced towards the old works, that you didn't work there after it got closer than nine feet.

WITNESS BROWN: No, I didn't. It was approximately seven to nine feet. I never went back after that.

MR. TISDALE: You didn't go back to work at the mine anymore?

WITNESS BROWN: No.

MR. TISDALE: And that was in January. Do you remember the date?

WITNESS BROWN: I believe January 18 was my last.

MR. TISDALE: Was water still coming from the test holes when the face was seven to nine feet away from the old works?

WITNESS BROWN: It was coming out of the hole at about six or seven feet.

MR. TISDALE: I don't have anymore questions.

MR. COOK: Mr. Strain?

MR. STRAIN: Mr. Brown, what was your location in the Number 14 Chute when you first drilled into this water?

WITNESS BROWN: We were at the third heading.

MR. STRAIN: And you drilled from -- what direction did you drill when you first encountered it?

WITNESS BROWN: We drilled right straight ahead at first. Then we hit the water, and drilled both flanks and hit water.

MR. STRAIN: And that was with a 49-foot hole?

WITNESS BROWN: Approximately, yes.

MR. STRAIN: Why were you using that long of a hole?

WITNESS BROWN: We wanted to hit the water. We kept drilling until we hit it.

MR. STRAIN: You expected to be able to hit the water?

WITNESS BROWN: Right. We wanted to drain it all.

MR. STRAIN: And you drilled three 49-foot holes in the water?

WITNESS BROWN: Approximately 49 feet, right.

MR. STRAIN: And then the water drained from those holes?

WITNESS BROWN: No, the water couldn't drain because dirt would block the hole.

MR. STRAIN: So, the water never drained from any of those three holes?

WITNESS BROWN: Not at that time, no.

MR. STRAIN: And then you proceeded to advance the breast; is that right?

WITNESS BROWN: Yes.

MR. STRAIN: And that was at the directions of the mine foreman, the section foreman?

WITNESS BROWN: They said they came from outside. I don't know -- the two foremen said.

MR. STRAIN: Did you drill additional test holes when you were making those cuts?

WITNESS BROWN: No, we did not.

MR. STRAIN: So, after that, you didn't make anymore test holes?

WITNESS BROWN: No.

MR. STRAIN: What was the depth of your blast holes?

WITNESS BROWN: We would take six-foot cuts.

MR. STRAIN: Was there water in those blast holes?

WITNESS BROWN: Yes.

MR. STRAIN: Did you have any difficulty setting off the powder?

WITNESS BROWN: No.

MR. STRAIN: Even though there was a lot of water there?

WITNESS BROWN: There wasn't a lot of water, but it was all wet.

MR. STRAIN: Was the water dripping out?

WITNESS BROWN: More or less, right.

MR. STRAIN: At what point did the water begin to

float from the -- the water that you encountered begin to drain out?

WITNESS BROWN: When we were within about 20 feet.

MR. STRAIN: Where did it drain from?

WITNESS BROWN: It drained from the test holes.

MR. STRAIN: The three test holes that you had previously drilled?

WITNESS BROWN: Right. They got the steels out at around 25 feet.

MR. STRAIN: Were the steels stuck in all three of the holes?

WITNESS BROWN: No, just in one hole.

MR. STRAIN: At about 20 feet, all three of the holes became unplugged, and water started coming down?

WITNESS BROWN: Right.

MR. STRAIN: That is all of my questions.

MR. COOK: Mr. Phares?

MR. PHARES: Mr. Brown, I believe you testified that you quit work on January 18; is that correct?

WITNESS BROWN: To my knowledge, somewhere around there.

MR. PHARES: Why did you quit your job?

WITNESS BROWN: I was afraid of the water.

MR. PHARES: Would you repeat that? I didn't hear it.

WITNESS BROWN: I was afraid of the water.

MR. PHARES: Were you ever shown a copy of the mine map?

WITNESS BROWN: No, I wasn't.

MR. PHARES: Were any employees that you know of shown a copy of the mine map?

WITNESS BROWN: Yes.

MR. PHARES: Who are they?

WITNESS BROWN: Leroy Manhart, Ray Reinoehl.

MR. PHARES: How did they see the mine map? Where did they see it, if you know?

WITNESS BROWN: In the office, the company office.

MR. PHARES: Do you know how they happened to go to the company office to see the mine map?

WITNESS BROWN: No, I don't.

MR. PHARES: Did you discuss with Mr. Manhart and Mr. Reinoehl the old workings that were adjacent to the active workings of the Porter Tunnel, this West Skidmore?

WITNESS BROWN: Yes, I did.

MR. PHARES: What was that discussion?

WITNESS BROWN: That was when we were out further, and Leroy told me that -- I didn't really want to go back in there, because there was too much water back there.

MR. PHARES: What did Leroy tell you?

WITNESS BROWN: That is what Leroy told me. He said

that -- when I was working with him, he said that he didn't want to go back in there, that there was too much water back there.

MR. PHARES: During your employment, did you ever attend any safety meetings?

WITNESS BROWN: No, I did not.

MR. PHARES: I have no further questions.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Mr. Brown, I believe you stated that they were drilling test holes in Number 7 Breast; is that correct?

WITNESS BROWN: Yes, Number 7.

MR. VICINELLY: Did you work Number 7 Breast?

WITNESS BROWN: I worked up on the top, on the flat right above Number 7.

MR. VICINELLY: Were the test holes being drilled when 7 Breast was started?

WITNESS BROWN: I don't know, sir.

MR. VICINELLY: At what location -- how far up was she in the 7 Breast when the test holes were being drilled?

WITNESS BROWN: I don't know. I worked up above Number 7.

MR. VICINELLY: But, you did see test holes being drilled in Number 7?

WITNESS BROWN: We drilled them up on top at Number 7.

MR. COOK: We have one question from the audience that the Panel doesn't think is really relevant, so it won't be asked.

If the person who wrote the question has any further comment, at the lunch break, we will be glad to discuss it with them. We don't feel it is relevant at this time.

Thank you.

(Witness excused.)

MR. COOK: At this time, we would like to recess for lunch, and we will reconvene at 1:00.

(Whereupon, at 12:00 noon, the hearing was adjourned, to reconvene at 1:00 p.m., this same day.)

AFTERNOON SESSION

(1:30 p.m.)

MR. COOK: This hearing will now come to order.

The first witness we would like to call this afternoon will be Mr. Earl Dunkle.

Whereupon,

EARL DUNKLE

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS DUNKLE: Earl Dunkle.

MR. PHARES: Will you please spell your name?

WITNESS DUNKLE: D-u-n-k-l-e.

MR. PHARES: Would you state your address for the record?

WITNESS DUNKLE: Box 196, Hegins, Pennsylvania.

MR. PHARES: Before we begin the questioning, I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have Counsel present when you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights, which I have just explained to you?

WITNESS DUNKLE: I do.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Dunkle, are you a certified foreman in the State of Pennsylvania?

MR. SAVIT: Mr. Dunkle, on advice of Counsel, respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Were you employed by the Kocher Coal Company in the months of January, February, March, 1977?

MR. SAVIT: Based on advice of Counsel, Mr. Dunkle refuses to answer pursuant to the rights granted to him by the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, what were your areas of

responsibility as an employee of the Kocher Coal Company?

MR. SAVIT: Pursuant to advice of Counsel, Mr. Dunkle respectfully declines to answer pursuant to the rights granted to him by the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, where were you at the time of the inundation of the Porter Tunnel Mine?

MR. SAVIT: On the advice of Counsel, Mr. Dunkle refuses to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, what were your instructions to workmen in relation to drilling test holes?

MR. SAVIT: On the advice of Counsel, Mr. Dunkle refuses to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, did you observe test holes being drilled and satisfy yourself that all test holes were being drilled as required?

MR. SAVIT: On advice of Counsel, Mr. Dunkle refuses to answer pursuant to the rights granted to him by the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, have you studied the mine

map at the South Dip Skidmore Conveyor entry area?

MR. SAVIT: On the advice of Counsel, Mr. Dunkle respectfully refuses to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, were you aware of old works ahead and above the workings on the South Dip Skidmore Gangway?

MR. SAVIT: On advice of Counsel, Mr. Dunkle refuses to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, can you name the working places where test holes were being drilled in this section?

MR. SAVIT: On advice of Counsel, Mr. Dunkle respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Dunkle, had you discussed the test hole drilling pattern with state and federal inspectors?

MR. SAVIT: On advice of Counsel, Mr. Dunkle refuses to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: I have no more questions at this time.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Dunkle, could you tell us, this Panel, the instructions and directions which you gave to the persons working under your direction in the West Skidmore section of the Porter Tunnel Mine?

MR. SAVIT: On the advice of Counsel, Mr. Dunkle respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: All my other questions concern areas which have been previously addressed by Mr. Tisdale.

MR. COOK: Thank you, Mr. Dunkle.

(Witness excused.)

MR. COOK: We would like to call, as our next witness, please, Mr. Palmer Merwine.

Whereupon,

PALMER MERWINE

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS MERWINE: Palmer Merwine.

MR. PHARES: Would you spell your last name?

WITNESS MERWINE: M-e-r-w-i-n-e.

MR. PHARES: Would you please state, for the record, your address?

WITNESS MERWINE: R.D. 1, Box 306, Ashland, Pennsylvania.

MR. PHARES: Mr. Merwine, before we begin the questioning, I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have Counsel present while you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give an answer.

Do you understand the rights that I have just explained to you?

WITNESS MERWINE: I do.

MR. PHARES: Thank you.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Dennis?

MR. STRAIN: I defer to Mr. Tisdale.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Merwine, are you a certified foreman in the State of Pennsylvania?

MR. SAVIT: On the advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, what are your areas of responsibility in the Porter Tunnel Mine, Kocher Coal Company?

MR. SAVIT: On the advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, where were you at the time of the inundation on March 1, 1977?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, what were your activities prior to that inundation on March 1, 1977?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted

to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, what were your instructions to workmen in relation to drilling test holes in the South Dip Skidmore Conveyor Gangway section?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, did you observe that test holes were being drilled and satisfy yourself that all test holes were being drilled as required on the Skidmore Conveyor Gangway section?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, had you studied the mine map of the workings of the South Dip Skidmore area?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, were you aware that old abandoned works lay ahead and above the workings on the

South Dip Skidmore area?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, had you discussed the drilling pattern with state and federal mine inspectors?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Merwine, can you name the working places where test holes were being drilled on the South Dip Skidmore section?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. COOK: Are there any further questions?

MR. STRAIN: Mr. Merwine, can you spell out, for this Panel, the mining and drilling procedures for us at the West Skidmore section of the Porter Tunnel Mine at the time of the inundation on March 1, 1977?

MR. SAVIT: On advice of Counsel, Mr. Merwine respectfully declines to answer pursuant to the rights granted

to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: Will you describe the instructions and directives given to the persons under your -- whom you supervised concerning the mining procedures and drilling procedures at about this time?

MR. SAVIT: On advice of Counsel,Mr. Merwine respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: All my other questions concern areas which Mr. Tisdale has already covered.

MR. COOK: Any further questions?

(No response.)

MR. COOK: Thank you.

(Witness excused.)

MR. COOK: At this time, we would like to call Mr. Roy Coleman.

Whereupon,

ROY COLEMAN

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS COLEMAN: Roy Coleman.

MR. PHARES: How do you spell your last name?

WITNESS COLEMAN: C-o-l-e-m-a-n.

MR. PHARES: What is your address, Mr. Coleman?

WITNESS COLEMAN: Hegins, R. D. 2.

MR. PHARES: Mr. Coleman, before we begin the questioning, I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have Counsel present while you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give us an answer.

Do you understand the rights which I have just explained to you?

WITNESS COLEMAN: Yes.

MR. PHARES: Thank you.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Coleman, are you a certified

foreman in the State of Pennsylvania?

MR. SAVIT: On the advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, what are your areas of responsibility in the Porter Tunnel Mine?

MR. SAVIT: On the advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, where were you at the time of the inundation on March 1, 1977?

MR. SAVIT: On the advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, what were your activities prior to that inundation?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, what were your instruction to workmen in relation to drilling test holes on the South

Dip Skidmore section?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, did you observe that test holes were being drilled and satisfy yourself that test holes were being drilled as required?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, have you studied the mine map of the South Dip Skidmore section?

MR. SAVIT: On the advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, were you aware of old abandoned works ahead and above the Skidmore South Dip section?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments

to the United States Constitution.

MR. TISDALE: Mr. Coleman, have you discussed test hole drilling patterns with state and federal mine inspectors?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Coleman, can you name the working places on the South Dip Skidmore section where test holes were being drilled?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: I have no more questions.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Coleman, will you identify the persons under your supervision in the West Skidmore section of Porter Tunnel Mine at the time of the inundation on March 1, 1977?

MR. SAVIT: On the advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: Mr. Coleman, will you describe the mining and drilling procedures in effect at the West Skidmore section of the Porter Tunnel Mine on or about the time of the inundation occurring on March 1, 1977?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: Mr. Coleman, will you describe the instructions and directives which you gave to persons under your supervision concerning the procedures on or about this time?

MR. SAVIT: On advice of Counsel, Mr. Coleman respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: Mr. Cook, all my other questions concern areas which were covered by Mr. Tisdale.

MR. COOK: Are there any other questions?

(No response.)

MR. COOK: Thank you, Mr. Coleman.

(Witness excused.)

MR. COOK: At this time, we would like to call Mr. Forrest Schucker.

Whereupon,

FORREST A. SCHUCKER

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS SCHUCKER: Forrest Schucker.

MR. PHARES: How do you spell your last name?

WITNESS SCHUCKER: S-c-h-u-c-k-e-r.

MR. PHARES: What is your address, Mr. Schucker?

WITNESS SCHUCKER: 209 South Goodspring Road, Hegins, Pennsylvania.

MR. PHARES: Mr. Schucker, before we begin the questioning, I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have Counsel present while you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give an answer.

Do you understand the rights that I have just explained to you?

WITNESS SCHUCKER: Yes.

MR. PHARES: Thank you.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Schucker, are you a registered professional engineer?

MR. SAVIT: Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, what are your responsibilities for the Kocher Coal Company?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, are you responsible for preparing the mine map of the South Dip Skidmore working area?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments

to the United States Constitution.

MR. TISDALE: Mr. Schucker, had you plotted the abandoned works of the Bush, Weaver, and Miller mines on the Porter Tunnel Mine map?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, what were the extent of these workings plotted on the mine map?

MR. SAVIT: On the advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, was an old slope for the Bush Mine expected to exist and was the suspected existence of that old slope plotted on the mine map?

MR. SAVIT: Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, was the existence of that dotted workings for the old Bush slope plotted on all available copies of the mine map showing the workings of the South Dip Skidmore section?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, did you make any attempts to locate information about the old Bush, Weaver, or Miller Mines which lay to the west of the South Dip Skidmore section?

MR. SAVIT: On the advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, would you have suspected that gangways would have been driven off of that dotted slope shown on some of the mine maps for the South Dip Skidmore section?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, to your knowledge, were any of the workings of the Bush, Weaver, or Miller Mines ever surveyed?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted

to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, did you ever discuss, with Porter Tunnel Mine officials, the test hole drilling pattern and the need for such test holes in the South Dip Skidmore section?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, do you know of any additional areas in the mine where water may be impounded?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, was any consideration or thought given to drilling long holes from the Conveyor Gangway entry to intersect the suspected Bush slope?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Schucker, was any consideration given to drilling a vertical hole from the surface into the

suspected location of the abandoned mine for the purpose of de-watering with a deep well pump?

MR. SAVIT: On the advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: I have no further questions.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Schucker, were you ever able to determine what would be a sufficient barrier between West Skidmore section of the Porter Tunnel Mine and adjacent abandoned mine workings?

MR. SAVIT: On advice of Counsel, Mr. Schucker respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: Mr. Cook, all my other questions relate to areas covered by Mr. Tisdale.

MR. COOK: Thank you.

Any other questions?

MR. PHARES: Mr. Savit, I think we had better clarify for the record. Has Mr. Schucker elected to have both you and Mr. Shaffer represent him here at this hearing?

MR. SAVIT: Yes; we have discussed that. We

recognize that,due to the short time, there is not time for Mr. Schucker to retain individual counsel; nor was there time for any of the other individuals.

However, we spoke with them about it, and they have authorized us to make the statements we have made on their behalf,at least on a temporary basis, until they are able to retain their own counsel.

MR. PHARES: Mr. Schucker, I want you to be aware of the fact that the Panel will give you the opportunity to retain other Counsel if you so desire.

I believe that Mr. Cook is going to make an announcement after we take the testimony that the record will be left open a certain amount of time.

If you decide to retain other counsel, please let us know, and we will make arrangements from that point on, if there is any change in your position.

I think I should have brought this up earlier. I assume, Mr. Savit, that you have notified the other witnesses who testified this afternoon of the same point; is that correct?

MR. SAVIT: Yes, I have.

MR. PHARES: Okay, fine.

MR. COOK: Thank you, Mr. Schucker.

(Witness excused.)

MR. COOK: At this time, we would like to call Mr.

Leon Kocher.

Whereupon,

LEON E. KOCHER

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS KOCHER: Leon Kocher.

MR. PHARES: What is your address, Mr. Kocher?

WITNESS KOCHER: Manner View, Millersburg.

MR. PHARES: Mr. Kocher, before we begin the questioning, I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have Counsel present while you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give an answer.

Do you understand the rights that I have just explained to you?

WITNESS KOCHER: I do.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Kocher, what is your position with Kocher Coal Company?

MR. SAVIT: Upon advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, who are the responsible officials for Kocher Coal Company?

MR. SAVIT: On advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, do you participate in the active management of the Porter Tunnel Mine, Kocher Coal Company?

MR. SAVIT: On advice of Counsel, Mr.Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, do you participate in operating, decision-making procedures for the Porter Tunnel

Mine?

MR. SAVIT: On advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, were you aware of the abandoned works of the old Bush, Weaver, and Miller Mines as they existed ahead and above the West Skidmore South Dip Conveyor Gangway section?

MR. SAVIT: On advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, were you aware of the extent of these workings as they were plotted on the active mine map for the Porter Tunnel Mine?

MR. SAVIT: On the advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth,and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, did you discuss the existence of these old works with the management officials of the Porter Tunnel Mine?

MR. SAVIT: On advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted

to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, did you participate, in any way, in the final operations of the old Bush Mine, which lay to the west of the West Skidmore South Dip Conveyor section?

MR. SAVIT: On advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Kocher, were you aware of the extent of the workings of the Bush slope?

MR. SAVIT: On the advice of Counsel, Mr. Kocher respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: I have no more questions.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Cook, I have no questions of Mr. Kocher, other than those addressed by Mr. Tisdale.

MR. COOK: Thank you, Mr. Kocher.

(Witness excused.)

MR. COOK: At this time, we would like to call Mr. Robert Rissinger, please.

Whereupon,

ROBERT WILLIAM RISSINGER

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS RISSINGER: Robert William Rissinger, R-i-s-s-i-n-g-e-r.

MR. PHARES: What is your address, Mr. Rissinger?

WITNESS RISSINGER: 900 Manner Drive, Millersburg.

MR. PHARES: Before we begin the questioning, I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have Counsel present while you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS RISSINGER: I do.

MR. PHARES: Thank you.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Rissinger, what was your position with Kocher Coal Company?

MR. SAVIT: On advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, what are the assignments of responsibility for officials of the Porter Tunnel Mine?

MR. SAVIT: On advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, were you aware that some old abandoned works of the Bush, Weaver, and Miller Mines existed ahead of the West Skidmore Conveyor Gangway South Dip?

MR. SAVIT: On advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, were some of these works plotted on the mine maps?

MR. SAVIT: On the advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, did you make any attempts to question previous owners or employees of the old Bush slope to find out the extent of those old works?

MR. SAVIT: On the advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, did you discuss the test hole drilling pattern with subordinate officials of the Porter Tunnel Mine?

MR. SAVIT: On advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, did you discuss the possibilities of de-watering the suspected abandoned works ahead of the West Skidmore Conveyor Gangway with long holes from the gangway face?

MR. SAVIT: On the advice of Counsel, Mr. Rissinger

respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, did you discuss the possible location of these old works with your mining engineer?

MR. SAVIT: On the advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Rissinger, who is the principal owner and stockholder of Kocher Coal Company?

MR. SAVIT: On the advice of Counsel, Mr. Rissinger respectfully declines to answer pursuant to the rights granted to him under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: I do not have any more questions.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: The questions I have were covered by Mr. Tisdale.

MR. COOK: No other questions; thank you, Mr. Rissinger.

(Witness excused.)

MR. COOK: At this time, we would like to call Mr. Leon Richter.

Whereupon,

LEON F. RICHTER

having been duly sworn, testified as follows:

MR. PHARES: Mr. Richter, please state your name for the record.

WITNESS RICHTER: My name is Leon F. Richter.

MR. PHARES: How do you spell your last name?

WITNESS RICHTER: R-i-c-h-t-e-r.

MR. PHARES: What is your address, Mr. Richter?

WITNESS RICHTER: 27 Spring Street, Tremont, Pennsylvania.

MR. PHARES: Mr. Richter, before we begin the questioning I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question.

You may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out

of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS RICHTER: I do.

MR. PHARES: Thank you.

MR. COOK: Mr. Tisdale.

MR. TISDALE: Mr. Richter, what is your position with Kocher Coal Company?

MR. SAVIT: On the advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, what is your area of responsibility in connection with the Porter Tunnel Mine?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, what were your instructions to subordinates on drilling test holes in the South Dip Skidmore Conveyor Gangway section?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted

to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, have you discussed that drilling pattern with federal and state mine inspectors?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, have you made inspections yourself to determine if test holes were being drilled as required?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, were you aware that the abandoned works of the old Bush, Weaver and other mines existed ahead and above the South Dip Skidmore Conveyor section?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Were some of these old works plotted on the mine map?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, did you make any attempts to locate former employees or owners of the old works to determine more about their true extent?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, did you discuss the proximity of the old works with the mining engineer employed at Porter Tunnel Mine?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, did you study the possibilities of drilling long holes from the gangway in the direction of those old works for purposes of de-watering?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, did you consider and discuss with your mining engineer or other officials the possibilities of locating the old mine and drilling a hole from the surface to use a deep-well pump and de-water the old works?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: Mr. Richter, are copies of the mine map made available for the employees and supervisors of the Porter Tunnel Mine?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. TISDALE: That's all I have.

MR. COOK: Mr. Vicinelly.

MR. VICINELLY: Dennis.

MR. STRAIN: Mr. Richter, were you ever advised that the test drill holes were not being drilled in the West Skidmore section of Porter Tunnel Mine in accordance with the directives of the district mine inspector?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted

to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: Mr. Richter, could you identify the persons who were working in the West Skidmore section of the Porter Tunnel Mine at the time of the inundation on March 1, 1977?

MR. SAVIT: On advice of counsel, Mr. Richter respectfully declines to answer pursuant to the rights granted to him under the First, Fifth and Fourteenth Amendments to the United States Constitution.

MR. STRAIN: Mr. Cook, all my other questions were covered by Mr. Tisdale.

MR. COOK: Any other questions?

MR. PHARES: Mr. Richter, would you produce for the panel the records and maps that you were told to bring with you today?

MR. SAVIT: Mr. Phares, we have those maps here; however, we are not clear as to the meaning of the subpoena; and, if you could clarify the subpoena for us, we would be glad to produce those maps that you request.

However, as I understand it, the subpoena reads "maps acquired by Kocher Coal Company," and we are not certain to which maps you refer.

MR. PHARES: I believe the maps that we were interested in were the maps of any old workings which would be

adjacent to the current Porter Tunnel Mine. We are not interested in maps of the Porter Tunnel Mine itself.

MR. SAVIT: We will produce those. We have to sort through all the maps we brought, but we will produce them as soon as we get them sorted out.

MR. PHARES: Fine; thank you.

MR. SAVIT: Mr. Cook, may I make a short statement?

MR. COOK: Yes.

MR. SAVIT: I really would like to, once again, put on the record that due to the circumstances that arose this morning, it was not possible for all of the people who wished to exercise their rights to silence to retain counsel.

However, I assure counsel for MESA and counsel for the State of Pennsylvania that I checked with each and every one of them individually and advised them of their right to retain individual counsel.

I will go over that right again, tonight, and stress to them your statement that the record will remain open, should they choose to come back and change their mind.

I just would also like to point out that each and every one of them exercised their right to silence with extreme reluctance.

We are very sorry that the proceedings had to take this turn.

MR. COOK: Thank you, Mr. Richter.

(Witness excused.)

MR. COOK: At this time the panel will take a 15-minute break. We will resume promptly in 15 minutes.

(Recess.)

MR. COOK: The hearing will now come to order, please.

The next witness we would like to have is Mr. James Laird.

Whereupon,

JAMES R. LAIRD

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name for the record?

WITNESS LAIRD: James R. Laird, L-a-i-r-d.

MR. PHARES: What is your address, Mr. Laird?

WITNESS LAIRD: R. D. 2, Schuylkill Haven, Pennsylvania.

MR. PHARES: Mr. Laird, before we begin the questioning, I want you to understand that this is a formal investigatory hearing; a written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with counsel of your

choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS LAIRD: I do.

MR. PHARES: Thank you.

Would counsel please enter his appearance for the record?

MR. TODD: My name is David Todd. I am an attorney with the Department of Interior, Office of the Solicitor, serving as Counsel for MESA.

MR. PHARES: Thank you.

MR. COOK: Mr. Laird, who is your employer?

WITNESS LAIRD: Mining Enforcement and Safety Administration of the United States Department of the Interior.

MR. COOK: What is your position with MESA?

WITNESS LAIRD: I am the coal mine inspection supervisor at the Schuylkill Haven field office.

MR. COOK: How long have you held that position?

WITNESS LAIRD: Approximately six years.

MR. COOK: Would you describe for us briefly what your duties are?

WITNESS LAIRD: My job, I have 11 people in that field office in addition to myself;and my job is to direct the inspection activities that take place from that field office. There are ten inspectors and myself there.

MR. COOK: Prior to March 1, 1977, had you ever instructed the people under your supervision with reference to the drilling of test holes in the vicinity of abandoned areas?

WITNESS LAIRD: Had I ever instructed them? I do not quite understand.

MR. COOK: Had you ever had occasion to instruct your people under your supervision with anything relative to the drilling of test holes?

WITNESS LAIRD: Well, I would probably have to say that my instructions to the inspectors would be: When they go to a mine, to any coal mine to make inspection, that one of the things that they should be sure of is that they study the maps of the mine before they go into the mine.

Not only for that purpose, but for -- one of the purposes would be to be sure that none of the mine workers were approaching inaccessible abandoned workings that could

contain water or gas.

MR. COOK: Are there instructions in the inspectors' manual related to the drilling of test holes?

WITNESS LAIRD: Yes, there is.

MR. COOK: What is your understanding, Mr. Laird, of the requirements of drilling test holes?

WITNESS LAIRD: My understanding is that any working place in a coal mine that approaches within 50 feet of abandoned workings that have been surveyed and accurately shown on a mine map by an engineer or surveyor, that test holes shall be drilled in the face,as close as may be necessary and in one or both ribs.

In other workings,when they approach within 200 feet of workings that have not been surveyed in the same mine or within 200 feet of workings in an adjoining mine, that similar test holes shall be drilled in that working place.

MR. COOK: Prior to March 1, had anyone discussed with you the drilling plan at the Porter Tunnel Mine, the test hole drilling plan, to your knowledge?

WITNESS LAIRD: I was in Porter Tunnel Mine in that section, in the West Skidmore South Dip Conveyor section, on September 2, 1976, and I talked about drilling test holes with Mr. Klinger, Sam Klinger, the mine foreman; but we did not discuss a plan as such, no.

MR. COOK: When you were at the mine at this time,

did you see test holes being drilled?

WITNESS LAIRD: I did not see test holes being drilled. Let me explain this a little bit.

I was there that day accompanying another inspector, and I was not making an inspection of the mine. I was just accompanying the inspector, but I did see that inspector have the miners in the gangway test the test drill holes that were drilled at the time.

MR. COOK: Where were those holes located, Mr. Laird?

WITNESS LAIRD: There was a hole located in the face of the gangway and a hole located on the high side or right-hand side rib of the gangway place.

MR. COOK: Were there any other test holes in that place?

WITNESS LAIRD: I did not see any other test holes.

MR. COOK: You say this was in September?

WITNESS LAIRD: September 2, 1976, yes, sir.

MR. COOK: Would you recall about where the location of the face of the gangway was at that time, with reference to chutes?

WITNESS LAIRD: I recall the face of the gangway to be about between Number 12 and Number 13 Chutes, in that general area.

MR. COOK: Did you have occasion to be at the Porter Tunnel Mine prior to September of 1976?

WITNESS LAIRD: I was at Porter Tunnel Mine on June 2, 1976; again, I was accompanying an inspector.

MR. COOK: Did anything unusual happen or had anything unusual happened that was discussed with you, at that time, at the Porter Tunnel Mine by company officials?

WITNESS LAIRD: On the June 2nd visit?

MR. COOK: Yes.

WITNESS LAIRD: There was nothing unusual discussed with me, no, sir.

MR. COOK: Was there any discussion considering a place that may have shot through into old works?

WITNESS LAIRD: None whatsoever.

MR. COOK: Later did you find out about a place being shot through into old works?

WITNESS LAIRD: No.

MR. COOK: It was never brought to your attention?

WITNESS LAIRD: No, sir.

MR. COOK: Were you on the West Skidmore Gangway section in September?

WITNESS LAIRD: Yes, sir; in the West Skidmore South Dip Conveyor Gangway section.

MR. COOK: Who did you say accompanied you on that?

WITNESS LAIRD: Inspector Earl Cawley and Sam Klinger, the Mine Foreman.

MR. COOK: Before going underground, Mr. Laird,

did you examine the mine map?

WITNESS LAIRD: I did.

MR. COOK: Did the mine map delineate or show any old abandoned workings adjacent to the West Skidmore Gangway section?

WITNESS LAIRD: The mine map showed the working place Number 8 Breast that had holed through into a breast above from old workings, in a breast above.

MR. COOK: Would that old breast have been identified in a manner as to the name of it? Does it have a name?

WITNESS LAIRD: Not at that time.

MR. COOK: While you were at the mine in September, did you have any discussions with Mr. Sam Klinger, the mine foreman at the mine, regarding test drilling?

WITNESS LAIRD: Yes, I did.

MR. COOK: What were those discussions, please?

WITNESS LAIRD: I knew that this place had been driven into some old works, this Number 8 Breast; and I was concerned about it, because we knew there were other old workings in the area somewhere,but we did not know where.

More concerned than anything else was that I wanted to make sure that I did talk with Mr. Klinger about the importance of drilling test holes ahead as they were needed.

That is generally what we talked about that day; the

importance of drilling test holes in this area where the old works could be -- supposed to be.

MR. COOK: Was the old Bush slope discussed?

WITNESS LAIRD: No, sir.

MR. COOK: Did you visit all the working places of the West Skidmore Gangway section on that day?

WITNESS LAIRD: No, I did not; I did not go up to the -- they had what they called a drag line on the top end of that working section up there, which is pretty high up.

I had no specific reason for going up there, and I just did not go up to that working place; no sir.

MR. COOK: What working places did you visit, Mr. Laird?

WITNESS LAIRD: I visited the gangway and the monkey airway; and I think we went in one of the other working places. Then, we went up to where Number 8 Breast had holed through into the old works.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Jim, how long have you worked in the anthracite mines?

WITNESS LAIRD: I have been assigned to the anthracite on two different occasions. When I first came in the Bureau of Mines-- I was at the Bureau of Mines, at that time, I worked in the Pennsylvania anthracite fields for approximately nine years.

I left there, and then I came back to this area of the country in October of 1970; and I have been here since that time.

MR. VICINELLY: What is your total experience in mining?

WITNESS LAIRD: More than 50 years.

MR. VICINELLY: How long were you a MESA mine inspector or a federal mine inspector?

WITNESS LAIRD: Just about 29 years now.

MR. VICINELLY: How long have you been on the job that you are on now?

WITNESS LAIRD: Approximately six years.

MR. VICINELLY: When you were underground and observed two test holes were drilled, I believe you said that was around 12 and 13 Chute; is that correct?

WITNESS LAIRD: That is correct.

MR. VICINELLY: Did you inquire if they were drilling the bottom hole?

WITNESS LAIRD: I did not.

MR. VICINELLY: Were they required to drill that bottom hole?

WITNESS LAIRD: From my knowledge at that time, from looking at the mine map, I saw no reason why they would be required to drill a bottom hole.

MR. VICINELLY: May we have Exhibit 3 up there, please

(Exhibit Number 3 displayed.)

MR. VICINELLY: The information that is up there on abandoned workings, would that be the same information that was on the map that you looked at; do you know, Jim?

WITNESS LAIRD: No, it is not.

MR. VICINELLY: How much of it was shown, if you remember? I know it is hard to remember back then.

WITNESS LAIRD: I can see from here where Number 8 -- where those two miner headings holed into that breast there, which is the last breast west of the drag line that went across the top -- the straight place across the top.

That is the extent of the old works that was shown on the map that I saw on that day, September 2.

MR. VICINELLY: 1976?

WITNESS LAIRD: 1976.

MR. VICINELLY: At that time, Jim, were you aware of the Weaver, Bush, or Miller mine?

WITNESS LAIRD: No, sir.

MR. VICINELLY: When you went underground, they were drilling test holes. Did you inquire why they were drilling test holes?

WITNESS LAIRD: No, I did not.

MR. VICINELLY: You are sure they were test holes?

WITNESS LAIRD: Oh, yes; they were measured the day we were there. Yes, I was sure they were test holes.

MR. VICINELLY: If I understood you, you saw them drilling test holes and you did not inquire why they were drilling and if there were abandoned mines in the area?

WITNESS LAIRD: No, I did not see them drilling test holes. I said we saw the test holes had already been drilled.

Mr. Cawley had those miners in there measure the test holes for him. When you said, "Did I inquire why they were drilling test holes," I had no reason to inquire why. I knew why they were drilling test holes.

MR. VICINELLY: Why were they drilling test holes?

WITNESS LAIRD: Because of the fact that there was a possibility of old works in the area above them, and that they were drilling test holes as a preventative measure.

MR. VICINELLY: When you say "above them," what area are you referring to? If I understood you correctly, you were talking above 8 or in any location.

WITNESS LAIRD: They had already holed through to the breast there in Number 8--at the top end of Number 8. The general impression that I got that day was if there were any old works there, they were in that area at the top end of that mining that they were doing in West Skidmore South Dip Conveyor Gangway; but the areas of the old works was vague at that time.

MR. VICINELLY: Is Kocher Coal Company required to

furnish a map to MESA?

WITNESS LAIRD: Yes, they are.

MR. VICINELLY: Was the Weaver Mine, Bush Mine, or the Miller Mine on those maps that were furnished; do you know?

WITNESS LAIRD: On which maps now?

MR. VICINELLY: The maps that the coal company is required to furnish you.

WITNESS LAIRD: I do not know what date, however, you are talking about.

MR. VICINELLY: The ones prior to the time that you went underground.

WITNESS LAIRD: Not on the maps that I saw, no.

MR. VICINELLY: When you were referring to the place that shot through to the old workings, would you tell me where that was at?

WITNESS LAIRD: There at those miner headings in the place where Number 8 -- the miner headings west off Number 8 Breast that holed through; right there.

MR. VICINELLY: The time that you were underground, was that being tapped off?

WITNESS LAIRD: No, sir. It had been tapped off some time prior.

MR. VICINELLY: Were you able to get into the abandoned workings?

WITNESS LAIRD: We did not, no, sir.

MR. VICINELLY: Were you able to look into them?

WITNESS LAIRD: It was pretty well filled up with debris, and you could not see very much.

MR. VICINELLY: On the map that you looked at, could you tell exactly how much of the abandoned workings were shown on it?

WITNESS LAIRD: Yes, right. The map that I looked at showed the workings, it shows the abandoned breast where Number 8, right there, and just that little dotted line -- just a little bit below that to the west; the part of the gangway that the breast was turned off from.

MR. VICINELLY: How far were the other breasts advanced?

WITNESS LAIRD: The other breasts?

MR. VICINELLY: Nine, ten, or so on.

WITNESS LAIRD: Well, they were doing some robbing, I am sure, in some of those other breasts, but I cannot answer you that precisely how far the other breasts were advanced.

MR. VICINELLY: If I understood you, when you went underground, they were around 12 and 13 Chute. So, 12 or 13 Chute -- 12 Chute could have been started?

WITNESS LAIRD: I think 12 Chute was started, to tell you the truth. I think they were between 12 and 13 Chute.

MR. VICINELLY: The map that you were looking at was

at the mine office on the wall; is that correct?

WITNESS LAIRD: It was at the mine office, but I think Sam Klinger took it out of the cabinet, however; not on the wall; out of the cabinet.

But, it was at the mine office, yes.

MR. VICINELLY: That's all I have for now.

MR. COOK: Mr. Shober.

MR. SHOBER: Jim, did you ever discuss the test bore holes being drilled in the Porter Tunnel, West Skidmore Gangway with your inspector?

WITNESS LAIRD: I didn't quite understand the question.

MR. SHOBER: Jim, did you ever discuss the test bore holes that were being drilled in the West Skidmore Gangway with your inspector?

WITNESS LAIRD: Only the time that I accompanied Inspector Earl Cawley on September 2.

MR. SHOBER: Were you notified immediately after the hole was drilled through to the old workings, Number 8 Breast?

WITNESS LAIRD: No, sir.

MR. SHOBER: That's all I have.

MR. COOK: Mr. Tisdale.

MR. TISDALE: Mr. Laird, how did you find out about encountering the impounded water at Number 8 Breast?

WITNESS LAIRD: I think I found out about it on September 2 when I went there and looked at the map and learned that they had holed into that Number 8 Breast.

Prior to that, I had no knowledge of it.

MR. TISDALE: What date did they hole through on Number 8 Breast?

WITNESS LAIRD: You mean that they drilled the holes through?

MR. TISDALE: Yes. Do you know what date they de-watered that?

WITNESS LAIRD: No, I do not.

MR. TISDALE: Sometime prior to your inspection on September 2?

WITNESS LAIRD: Yes; yes, indeed.

MR. TISDALE: Did any of your inspectors make an investigation of the circumstances surrounding encountering the impounded water?

WITNESS LAIRD: You mean in Number 8 Breast?

MR. TISDALE: In Number 8 Breast.

WITNESS LAIRD: It was never reported to the Schuylkill Haven office at all; but I got some scuttlebutt that one of the other inspectors had come in and told Earl Cawley, who was working that mine at the time -- and I think Earl was making an inspection there. These guys never discussed it with me, and I think Earl went up there at the

time that it did occur, and he got some information on it.

That is all I know about that.

MR. TISDALE: How many sets of mine maps does the company supply MESA a year?

WITNESS LAIRD: One set of mine maps a year.

MR. TISDALE: Do they supply MESA with mine maps, copies of mine maps, for any other reason?

WITNESS LAIRD: No.

MR. TISDALE: Do they supply MESA a copy of the map with the ventilation plan?

WITNESS LAIRD: Yes, they do; yes.

MR. TISDALE: Is this an identical mine map to the mine map as you see in Exhibit Number 3?

WITNESS LAIRD: The ventilation mine map that I had in the office was not; no. The ventilation map that we had in our office didn't have any of that old abandoned workings on northwest of the conveyor gangway.

MR. TISDALE: Could we have a copy of the mine map that goes with the ventilation plan?

WITNESS LAIRD: Could you have a copy?

MR. TISDALE: Yes. Is there one available?

WITNESS LAIRD: There was one available, but I think they were taken up to the Wilkes-Barre office after the inundation.

MR. SHUTACK: I have my maps for '76 and '77.

MR. TISDALE: Mr. Laird, can you get a copy of the material, the ventilation map, that Mr. Shutack has.

(Ventilation map handed to Witness Laird.)

MR. TISDALE: Mr. Laird, can you identify the map that you are looking at?

WITNESS LAIRD: Yes, I can.

It has got a label on here; it starts off "Porter Tunnel, Kocher Coal Company, Valley View, Pennsylvania. Mine map showing the ventilation system of the Porter Tunnel Mine; Porter Tunnel, Schuylkill County, Pennsylvania; Scale: one inch equals 100; July 8, 1976; F. A. Schucker, P.E."

MR. PHARES: Mr. Laird, would you mark on that map, just below the area that you read, Exhibit Number 11?

(Whereupon, the map was marked as Panel Exhibit No. 11, for identification.)

MR. TISDALE: Mr. Laird, what was the date, again, of that line map that you read?

WITNESS LAIRD: July 8, 1976.

MR. TODD: Mr. Tisdale, that was a ventilation map.

MR. TISDALE: Ventilation map; right.

Does that ventilation map show the mapped areas of the South Dip West Skidmore Gangway section?

WITNESS LAIRD: Partially. It shows the mapped areas to Number 12 Breast, just above the monkey; and that is the extent of it.

MR. TISDALE: Would that be the extent of the mine workings at the time?

WITNESS LAIRD: That the map was made?

MR. TISDALE: Yes.

WITNESS LAIRD: As far as I know, it would be.

MR. TISDALE: Does that map show any of the old abandoned workings; the Bush, Weaver or Miller slopes?

WITNESS LAIRD: None. It shows here at the west end of the drag line gangway, old bootleg gangway, and then it is an old breast, and then in the bottom end of that old breast the breast was turned off; it just simply says "Old bootleg gangway." It shows about -- if this map is the scale of one inch equals 100, it shows about 150 feet of that old gangway.

MR. TISDALE: Mr. Laird, is that similar to, as best you recall, the map that you looked at when you were at the mine in September '76?

WITNESS LAIRD: As best as I can recall, this was copied from that map. They are copies; yes.

MR. COOK: Mr. Vicinelly would like to see that map. May we see that, please?

(Ventilation map handed to Mr. Vicinelly.)

MR. TISDALE: Mr. Laird, in light of your knowledge of the old abandoned works, in your opinion, was the company complying with the federal regulations in September 1976 as

far as drilling of test holes was concerned?

WITNESS LAIRD: They were.

MR. TODD: Mr. Tisdale, a clarification. Insofar as he knew at that time.

Is that what you mean?

MR. TISDALE: Yes. I tried to phrase the question as far as his knowledge.

Mr. Laird, are you aware of the mine maps supplied to MESA in addition to the ventilation map?

WITNESS LAIRD: You mean periodically?

MR. TISDALE: Periodically.

WITNESS LAIRD: Well, the Kocher Coal Company sends the mine maps into the office, either with the inspector or they may send them up to the Wilkes-Barre headquarters office.

However, our maps are processed in the Wilkes-Barre headquarters office, and then they are forwarded to the field office.

Now, when I get a map of any mine -- each of the inspectors in the Schuylkill Haven office has a certain number of mines assigned to them, and the inspectors rotate on a six-month basis.

When I get a map down from Wilkes-Barre, I simply look at the map, and unless I have got some other reason to do so, I find out which inspector has the mine assigned for that particular map and I put it in his mail box. Then I don't pay

very much attention to it after that, unless I have some reason to.

MR. TISDALE: Mr. Laird, are you acquainted with the Exhibit Number 3?

WITNESS LAIRD: In what manner?

MR. TISDALE: Are you aware that it is a copy of a mine map submitted in the Wilkes-Barre office that has been photographed and enlarged?

WITNESS LAIRD: Yes.

MR. TISDALE: So, MESA was in possession of two separate maps of the West Skidmore South Dip workings, one of which showed the old abandoned slopes, and one which did not show the old abandoned slopes; is that correct?

MR. TODD: Mr. Tisdale, are you asking whether he knew it then or insofar as information that he knows now, since the inundation?

MR. TISDALE: As we have described, as we are aware of, or as the Panel has become aware of, there are two maps.

WITNESS LAIRD: It would appear that way; yes.

MR. TISDALE: I have no further questions.

MR. COOK: Mr. Strain.

MR. STRAIN: I have no questions.

MR. COOK: Mr. Phares.

MR. PHARES: Mr. Laird, what was the purpose of your accompanying the MESA inspector on September 2 when you went

to the West Skidmore?

WITNESS LAIRD: Part of my duties as Coal Mine Inspection Supervisor in the field office is to accompany each inspector during an inspection as often as possible, but at least once every month; and, this was a routine accompaniment at that time, as was the July 2 visit in the Porter Tunnel Mine.

MR. PHARES: During that September 2 visit did you have any conversations with either management personnel or hourly workers with regard to the importance of drilling test holes?

WITNESS LAIRD: With Sam Klinger, the mine foreman; yes.

MR. PHARES: Could you tell us that conversation?

WITNESS LAIRD: Well, when I got to the mine, of course, I learned that they had tapped into that old breast and that there was a possibility of other inaccessible abandoned workings in the area; and that there was a good possibility that they would have impounded water.

I talked with Sam; and, of course, I am sure Sam was aware. But, I talked with Sam, essentially, about how important it was that we keep drilling test holes as required.

MR. PHARES: And, when you had those discussions with Mr. Klinger, was the drilling plan that has been testified to earlier in this hearing referred to at all?

WITNESS LAIRD: You mean the drilling plan as such?

MR. PHARES: Yes. We have had testimony during this hearing about a drilling plan that was agreed to between mine officials and the state inspectors.

WITNESS LAIRD: No. We discussed no plan.

MR. PHARES: I have no further questions.

MR. COOK: We have some questions from the audience that I would like to ask now, Mr. Laird.

Do you know if the federal or state inspectors were aware of the old abandoned mine shafts?

WITNESS LAIRD: Mine shafts?

MR. COOK: Yes, sir.

WITNESS LAIRD: Mine shafts. There are no old abandoned mine shafts in that area.

MR. COOK: Excuse me; slopes.

WITNESS LAIRD: Slopes.

Would you repeat the question then, again, please?

MR. COOK: Do you know if the federal or state mine inspectors were aware of the abandoned mine shafts -- I am sure they meant slopes.

WITNESS LAIRD: I do not.

MR. COOK: You were not aware of the slopes; is that correct?

WITNESS LAIRD: No, I was not.

MR. COOK: I believe you have answered the other one;

you did not see a mine map that showed an estimate of where old slopes might be?

WITNESS LAIRD: I did not.

MR. COOK: To your knowledge, did MESA ever issue any notices or orders related to the drilling of test holes?

WITNESS LAIRD: Not to my knowledge.

MR. COOK: Did MESA ever specifically order testing or the drilling of test holes in the West Skidmore Gangway section?

WITNESS LAIRD: Not to my knowledge.

MR. COOK: Having known of the old workings at Number 8 Breast, would that have made you suspect that there had to be a slope at some point west of the West Skidmore Gangway section?

WITNESS LAIRD: Yes, it would, but so far as the depth of the slope was concerned, that wouldn't tell me anything about how deep the slope was.

MR. COOK: You were in the face of the West Skidmore Gangway and also the monkey airway; were the test holes being drilled at that time -- were they to your satisfaction?

WITNESS LAIRD: They were.

MR. COOK: Did you receive any maps other than the ventilation map from the Wilkes-Barre office or from the Kocher Coal Company?

WITNESS LAIRD: I didn't quite understand that

question.

MR. COOK: Which maps did you receive from the Kocher Coal Company at your office? Were they ventilation maps, or were they the maps of the mine?

WITNESS LAIRD: I am not absolutely sure; we probably received both maps.

You see, like I said, when I get the maps down, I just see that they are a map from the company, whichever company it might be, and whoever the mine is assigned to, the inspector that it is assigned to, unless I have some reason to look at the map specifically, I just put it in his mail box and he takes care of it from there.

Now, we get maps of the mine and we get ventilation maps; but, for me to tell you precisely when, I couldn't do that.

MR. COOK: Mr. Tisdale.

MR. TISDALE: I have a question from the audience, Mr. Laird, and the question is: Isn't it common that ventilation maps may be done in somewhat less or different detail than other mine maps submitted to MESA?

WITNESS LAIRD: The MESA regulation requires that the ventilation map be an up-to-date map of the mine, and the only difference would be that the ventilation map does not have to have the seal of a certified or registered engineer as does the map of the mine.

MR. TISDALE: But, the ventilation map, the regulations require the same basic --

WITNESS LAIRD: An up-to-date map of the mine; yes, sir.

MR. COOK: Mr. Vicinelly.

MR. VICINELLY: If the company submitted a map to you that was a ventilation map, for the purpose of a ventilation map, would the abandoned workings have to be shown?

WITNESS LAIRD: If it was an up-to-date map of the mine, I would think so, yes.

In fact, MESA regulations require that abandoned workings, all known abandoned workings be shown on ventilation maps.

MR. VICINELLY: On the map that you received -- first of all, the other maps that you have received, do they have the abandoned portions -- the maps that you received prior to the breakthrough, do they show the abandoned portions of the Bush, Weaver or Miller Mine?

WITNESS LAIRD: The maps of Kocher Coal Company?

MR. VICINELLY: Yes.

WITNESS LAIRD: The other maps?

MR. VICINELLY: Yes.

WITNESS LAIRD: You mean maps of the mine?

MR. VICINELLY: Yes.

WITNESS LAIRD: I think we have some maps that do not

show the workings, maps of the mine.

MR. VICINELLY: Do any of them show the workings? Do any maps at all that you had prior to the breakthrough show the workings?

MR. TODD: That breakthrough in Number 8?

WITNESS LAIRD: Let me say that we have maps of the mine that show the abandoned workings, minus the hashed-in area down, yes; minus the hashed-in area.

MR. VICINELLY: Prior to the breakthrough?

WITNESS LAIRD: Prior to the break-in.

MR. VICINELLY: It had the information that is on that map except what is hashed-in?

WITNESS LAIRD: That area and the straight down area; right.

MR. VICINELLY: When you were underground on September 2, 1976, and you reviewed a mine map and it indicated that gangway, bootleg gangway, from that could you tell the extent of the abandoned mining?

WITNESS LAIRD: I could not.

MR. VICINELLY: By looking at that could you tell that it did not go below the Skidmore seam?

WITNESS LAIRD: By looking at what, may I ask?

MR. VICINELLY: The map that you had that you looked at on September 2, Jim.

WITNESS LAIRD: No, I could not.

MR. VICINELLY: There was a possibility -- when a map is surveyed and it is left open on the end, does that indicate anything to you -- I guess to clear it up; let me try to clear that up.

In looking at that map, the gangway that goes across, Number 8, 9, 10, 11, and on across -- that is Exhibit 3 -- it shows an opening to your left, right there.

WITNESS LAIRD: Yes.

MR. VICINELLY: When it shows an opening like that, does that indicate anything to you?

WITNESS LAIRD: Well, in the first place, the hashed-in indicates to me that it has never been surveyed; and, so, the answer is no.

MR. VICINELLY: Would that alert you to the possibility of abandoned workings?

WITNESS LAIRD: If I would have saw that, it certainly would have.

MR. VICINELLY: But you saw it above 8?

WITNESS LAIRD: I saw the breast; yes, sir, I did, and approximately 150 feet of the hashed-in old gangway.

MR. VICINELLY: That is all I have.

MR. COOK: Is the July map, Mr. Laird, the ventilation map; the one we marked Exhibit Number 11, is that the last map your field office received from the Porter Tunnel Mine, not from the district office?

WITNESS LAIRD: Yes, it was.

MR. COOK: Mr. Laird, how many maps under federal regulations is a mine required to submit to MESA?

WITNESS LAIRD: You mean ventilation maps and so on and maps of a mine?

MR. COOK: Yes.

WITNESS LAIRD: Well, they are required to submit a ventilation map, and they are required to put their projection on for a year-and-a-half.

So, I would say they are required to submit a ventilation map once a year. Now, of course, they are required to submit two copies of the mine map to the district manager on March 1 every year; up-to-date copies, up-to-date maps of the mine.

MR. COOK: Are there any other questions?

(No response.)

MR. COOK: Thank you, Mr. Laird.

(Witness excused.)

MR. PHARES: I would like to state for the record that during the recess, Counsel for Mr. Richter turned over to the Panel three maps in response to our subpoena. They will be numbered Exhibits 12, 13 and 14.

(Whereupon, the maps were marked as Panel Exhibit Nos. 12, 13, and 14, for identification.)

MR. COOK: At this time, we would like to call

Mr. Earl Cawley, please.

Whereupon,

EARL CAWLEY

having been duly sworn, testified as follows:

MR. PHARES: Please state your name and spell it.

WITNESS CAWLEY: Earl Cawley; 695 Grant Street, Hazleton, Pennsylvania.

MR. PHARES: Mr. Cawley, how do you spell your last name?

WITNESS CAWLEY: C-a-w-l-e-y.

MR. PHARES: Mr. Cawley, before we begin the questioning, I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have Counsel present while you are testifying. You may consult with Counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with Counsel of your choice.

You also have the right not to make any statement that might lead to your conviction of any state or federal offense.

You should understand that any statements which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS CAWLEY: I do.

MR. PHARES: Thank you.

MR. COOK: Mr. Cawley, who is your employer?

WITNESS CAWLEY: MESA.

MR. COOK: How long have you been employed by MESA?

WITNESS CAWLEY: Six years.

MR. COOK: What is your position with MESA?

WITNESS CAWLEY: Federal coal mine inspector.

MR. COOK: How long have you been a coal miner or worked in the coal mining industry in total?

WITNESS CAWLEY: About 22 years in anthracite.

MR. COOK: Which field office are you assigned to?

WITNESS CAWLEY: Schuylkill Haven.

MR. COOK: Since you have been with MESA, have you been assigned to any other field offices?

WITNESS CAWLEY: Shamokin office.

MR. COOK: When were you assigned to your present office?

WITNESS CAWLEY: I first -- it was in June, 1971.

MR. COOK: At Schuylkill Haven?

WITNESS CAWLEY: Right.

MR. COOK: When were you last assigned to inspect the Porter Tunnel Mine or that that mine was assigned to you for inspection purposes?

WITNESS CAWLEY: The last?

MR. COOK: The last period of time; every six months, inspectors, I understand, are rotated to different mines. When were you assigned to inspect the Porter Tunnel Mine last?

WITNESS CAWLEY: In the period from June, 1976, and through September, '76.

MR. COOK: Did you inspect the mine in June, 1976?

WITNESS CAWLEY: Yes, I have.

MR. COOK: On what days did you inspect that mine?

WITNESS CAWLEY: June 1, 2, 4, 10, 14, and 15.

MR. COOK: Did anyone accompany you on any of those days that you inspected that mine?

WITNESS CAWLEY: Yes, there was.

MR. COOK: Who was that, please?

WITNESS CAWLEY: My supervisor, Mr. Laird.

MR. COOK: What was the reason for his accompanying you on that inspection?

WITNESS CAWLEY: MESA has a policy that the supervisor travels with the inspector once a month. It just happened to be my turn.

MR. COOK: During this inspection, was there anything of any unusual nature reported to you?

WITNESS CAWLEY: Yes, there was.

MR. COOK: What was that, please?

WITNESS CAWLEY: One morning, when I came in on June 4 into the office before starting time, Inspector Dean Updegrave brought to my attention that somebody called him on the telephone and told him that they broke into the old workings at Porter Tunnel.

MR. COOK: When did you next inspect or go to the mine; the next date of inspection, what was that date?

WITNESS CAWLEY: June 4, the same date that I was told.

MR. COOK: While you were at the mine that day, did you check into this reported incident?

WITNESS CAWLEY: Yes, I did.

MR. COOK: Would you give us an account of that, please?

WITNESS CAWLEY: Well, when I first arrived at the mine, I did not discuss anything about this conversation I had with Inspector Updegrave.

I looked at the Porter Tunnel maps, which they already had out on the table; and Leon Richter and the foreman, Mr. Klinger, was there with me at the time.

They explained to me that they had drilled into water. There was nothing discussed about this breaking at that particular instance; that they hit it ahead of time; that

they were not supposed to hit these old workings until 200 feet farther in.

I proceeded to go into the mine with Sam Klinger, the foreman. We went into this section. I did not discuss anything with him, because the information I was given prior to getting to the mine was that this cut blowed into old workings.

While we were walking in, Mr. Klinger described to me that the men must have been scared and the cut stuck on them.

Now, I do not quite remember. He said they drilled the hole -- under my interpretation, they drilled the hole after the cut stuck and they hit water.

MR. COOK: Are you talking about a test hole now?

WITNESS CAWLEY: A test hole; and they got scared. He said the foreman pulled all the men out of that section and the top split.

That is the going of the conversation until we got into the job itself. The job itself, all I could see was a hole; there was no water in the area; no water coming out of the hole. It was just a hole in the heading.

The heading was just the same -- you could not say it was drilled or fired or anything like that. It was a hole; so it was burnt, which meant it was a stuck cut, not blown into anything.

They had a little trough there where they must have been diverting the water away from washing the rib away; to make it go out into the chute and go down the chute end of it and not hurt the manway or the pillar itself.

MR. COOK: Was there water running at this time?

WITNESS CAWLEY: No, there was no water running at this time. There was a few men working down, estimated -- now, this is only approximately. I would say 30 to 40, maybe 50 feet below, they were drilling at that time.

I observed them drilling a hole. It was a test hole they were drilling trying to tap this water down farther. I asked Mr. Klinger why they were drilling down there. He says, "Well, this way here, as they tap the water, they could move up the pitch and keep tapping it without the men standing under a hole that they drilled with water when they hit it."

In other words, if you drilled up above and tapped the water, then, you could not drill below until after the water stopped. This way here, you could still drill more than one hole without the men getting wet, which was logical.

I did observe them putting the steel in there, and I took a noise reading of the steel while I was there. I estimated it by counting the steel that they had there. The steel they put in was roughly around 35 feet.

They did not hit anything while I was there. I did discuss, with Sam, what they were going to do. He says, "We

are not going to do anything until we get this water out and see what we got in there."

That was his statement, and I said, "Well, there is not much I can do until you do get in that area."

We went, then, down into the face of the gangway. This was roughly, I would say, maybe 300, 350 feet below where this was.

We went into the face, and I took an air measuring, but there was no men working in the area. But I still took an air measurement to see that the air was traveling in there. He had an air mover hooked up; that was roughly the thing he was doing. No men was going in there at all until these couple of fellows tapped the water; that they could open it up and see what was there.

MR. COOK: What was the condition of the gangway face when you visited the area?

WITNESS CAWLEY: There was nothing done with it; it was just there. There was nothing at all; there was no coal or anything.

MR. COOK: It was a clean face; the place was timbered up?

WITNESS CAWLEY: Right.

MR. COOK: Had you noticed if there had been test holes drilled?

WITNESS CAWLEY: No, I did not.

MR. COOK: Did you look for any test holes?

WITNESS CAWLEY: No, I did not.

MR. COOK: Where did you go after that?

WITNESS CAWLEY: I think after we left that area, we continued our inspections of the escapeways, because that is generally our policy of inspection.

After you finish a section, work on the escapeways, because there is quite a bit of escapeways to travel. You work part of them with each part of the section that you work with.

MR. COOK: Could you speak up just a little bit, please, Mr. Cawley? They cannot hear you in the back.

WITNESS CAWLEY: Yes, sir.

MR. COOK: So, you went on to check the escapeways?

WITNESS CAWLEY: Right.

MR. COOK: When you first go to a mine on any inspection, do you check the map before you go underground?

WITNESS CAWLEY: Yes, I do.

MR. COOK: On this particular inspection, did you check the map before you went underground?

WITNESS CAWLEY: Yes, I did.

MR. COOK: Where was this map located that you looked at?

WITNESS CAWLEY: It was already out on a table.

MR. COOK: Where was this?

WITNESS CAWLEY: In the back office, Kocher Coal Company.

MR. COOK: After you looked at that map, as you recall now, did it show any abandoned workings in the vicinity of the West Skidmore Gangway section?

WITNESS CAWLEY: All that it showed was two portals on the map.

MR. COOK: Where would those two portals have been located on that map?

WITNESS CAWLEY: West of their workings.

MR. COOK: And as far as being up or down?

WITNESS CAWLEY: It was above and away.

MR. COOK: Did you discuss with mine management, at any time during this inspection, their drilling pattern for drilling test holes?

WITNESS CAWLEY: During this inspection, yes, I did. Mr. Klinger told me that they were going to drill test holes in all cases; that was the statement he made.

MR. COOK: What did you take that to mean?

WITNESS CAWLEY: Well, that he was going to drill forward and drill flank holes; as far as I know, he was going to drill ahead in all faces and all cases.

MR. COOK: He was going to drill straight ahead in the face?

WITNESS CAWLEY: Right.

MR. COOK: And how many flank holes?

WITNESS CAWLEY: He was just -- the case, as I understood, he did not specifically state both ribs or anything like that. He just says, "Flank." There was nothing discussed about both or anything like that. It was just --

MR. COOK: Did you make any specific requirements at that time, while you were there?

WITNESS CAWLEY: No, I did not. My thing was that I had intentions of getting in as soon as he had the water drained out; first, see what he had, know what he was in, and know his plans.

Being that it was in the beginning of my inspection, I knew that I would be back in that area.

MR. COOK: This time that you were at the mine for this complete inspection, did you have occasion to go back into the West Skidmore Gangway section?

WITNESS CAWLEY: Yes, I did.

MR. COOK: Were they producing coal in that section, at that time?

WITNESS CAWLEY: No, they were not.

MR. COOK: How much later was this than the first time that you were on this section?

WITNESS CAWLEY: It was either the 14th or 15th. We discussed the -- on the 10th, I was back, but he told me he had just drained the water out of the mine.

You could not see nothing then. He said he was going to start opening it up to see what he hit.

MR. COOK: To the best of your knowledge, how long was that section down due to draining the water out of the old works?

WITNESS CAWLEY: Well, if it happened on the second shift, which is under my interpretation, and this is the tenth; roughly eight days.

MR. COOK: When was the next time that you went to the Porter Tunnel Mine for an inspection?

WITNESS CAWLEY: I think it was June 30.

MR. COOK: Where did you go on that particular day?

WITNESS CAWLEY: That particular day, I was on the surface checking refuge piles.

MR. COOK: When did you complete your inspection of the Porter Tunnel Mine, this inspection we are talking about?

WITNESS CAWLEY: The 17th of September.

MR. COOK: In other words, you started the inspection in June and --

WITNESS CAWLEY: Oh, no. I finished an inspection in June;on the 15th of June.

MR. COOK: On the 15th?

WITNESS CAWLEY: Right. Then, I came back on the 30th for a spot on the surface; and on July 28, we made an

impact inspection there.

MR. COOK: During this impact inspection -- for the record, what is an impact inspection, Mr. Cawley?

WITNESS CAWLEY: It is a group of inspectors go to a mine; to go in the mine with the workers and to hit all sections at the same time. By doing that, you catch anything first view.

MR. COOK: How many inspectors were present for this inspection?

WITNESS CAWLEY: Three.

MR. COOK: What section did you go to for this impact inspection?

WITNESS CAWLEY: I picked the Skidmore, because I said I wanted to get into the old workings. I wanted farther -- that mine was assigned to me, and I said I will pick the Skidmore, because I want to get in and know more about it.

MR. COOK: On that day, what places did you visit, working places in the West Skidmore Gangway section?

WITNESS CAWLEY: I visited the face of the gangway, monkey headings, Number 12 Chute. Also, I went into the old workings at Number 9; they were holed into the old workings.

MR. COOK: Do you recall what the condition of the face of the gangway was at the time of your inspection?

WITNESS CAWLEY: At that time, they were doing

timber.

MR. COOK: Did you discuss with anyone, or did you notice any test drill holes that had been drilled in the face?

WITNESS CAWLEY: The foreman -- they were not prepared there on that, but the foreman on each case -- because we discussed, I told them I wanted a discussion on all phases of drill holes.

As we went in, we discussed drill holes on all phases. I do not recall just where we seen them or anything else, but I seen test holes during the inspection and had every one of the employees we talked to -- in fact, one in particular mentioned that in -- I think it was Number 12 Chute, they were drilling.

I did not notice no air going into the place. They had bazookas, but it was disconnected. They had it disconnected because they were using the drill with the same hose that they used to use these air movers.

I asked the fellow to shut the drill off; and they were setting just talking. Then I took a smoke tube out and I squeezed it and I showed them the course of the air. I said, "Look it, you do not have no air in here at all now." I said, "The smoke doesn't even want to go out." I cited them for air -- not having any air in the face.

The foreman said, "Well, I gave you the T's, and why didn't you put them on." He immediately put them on and

I abated the notice immediately.

But during this conversation, the driller asked me: Was it necessary for him to drill the test holes in this rock, because it was almost all rock? There was no question. I says, "Look; I am not your boss, but if you do not drill them, you will get cited. It is as simple as that. You are not drilling them for me; you are drilling them for your own protection."

MR. COOK: Where was this?

WITNESS CAWLEY: Number 12 Chute.

MR. COOK: Number 12 Chute?

WITNESS CAWLEY: Right.

MR. COOK: Was that a flank hole to the left?

WITNESS CAWLEY: They were just drilling a cut in the rock, and he asked me this question about drilling the test holes.

MR. COOK: They were drilling the 12 Chute up?

WITNESS CAWLEY: That is right.

MR. COOK: On this particular day, did you check, yourself, any test holes that had been drilled?

WITNESS CAWLEY: The only ones that we noticed -- there were parts of holes in the base. The rest they did not have; you could not see any holes.

MR. COOK: Did you issue any other notices on this particular day?

WITNESS CAWLEY: I issued three notices on that day.

MR. COOK: What were they?

WITNESS CAWLEY: The other notices were for self rescuers. This was one of the reasons why the impact inspection is done.

In a big mine, sometimes, they have self rescuers; when you make your inspections, you go into the place and, today, this man has them. They know your routine; so, you go up this chute. They have the rescuers there.

When you are into the next one, they are down and move to the next one. This was one of the things I was counting on, the self rescuer for the manpower that was in there. And, they were cited for not having enough self rescuers.

The other one, I checked two men as I entered for identification tags on their belt, because I had a young man that I knew was just employed there and I questioned this young man when I was in there if he knew about first-aid equipment and so forth; then I asked him about his tag on his belt and he didn't have any.

I cited them. There were two miners in that area that did not have them.

MR. COOK: On this particular day did you have any concerns about the method in which the West Skidmore section was being advanced in light of the old works that were reported

in the area?

WITNESS CAWLEY: Well, in Number 9 Chute, it was opened there; they had it open. It was a gangway. It was open enough that you could see -- the gangway, when I was looking in it, I would say roughly there was about an opening on the top of two feet.

The rest was filled up with fine coal, and you could not -- if you shined your light, you could see -- I shone my light over the top of the pile out towards the gangway. You could see this coal as far as your light could go. You just had an opening, I would say, around 18 inches to two feet.

MR. COOK: Having looked at the mine map at the mine, having been underground and being at the Number 9 Chute, at that time, what was your impression of the extent of the old works and the location of those old works?

WITNESS CAWLEY: Well, as far as the extension of the old works, you have no way to judge the extent; there was no way at all. They had drawn in pencil mark,anticipating there from this portal that I seen--they drawed in pencil -- was drawn on the map down and across to this opening that they had.

It was just proposed. I mean, they were not -- the only thing they were sure of, the chute that was going up a breast, whatever you want to call it.

MR. COOK: What map was this sketching done on?

Was it a map in the office?

WITNESS CAWLEY: That is right; it was a map in the office.

MR. COOK: What map did you have in your possession of the Porter Tunnel Mine; did you have a map that had been submitted to MESA of that mine?

WITNESS CAWLEY: I had a ventilation plan.

MR. COOK: You had a ventilation plan. Did that ventilation plan show or delineate, in any manner, the old works associated around the West Skidmore Gangway section?

WITNESS CAWLEY: It just had little marks of the portals; the same ones I saw on the map that they had. It was faint, but there was markings of portals there.

MR. COOK: Was there any markings of slopes on that map?

WITNESS CAWLEY: There were no markings of any slopes on either map.

MR. COOK: The one in your possession?

WITNESS CAWLEY: Or the one that I was looking at of the Porter Tunnel.

MR. COOK: Or the one that the company showed you at the mine?

WITNESS CAWLEY: That is right. They were drawn in in pencil, extending from the portal down as they would figure that this is the gangway they would hit.

MR. COOK: When was the next time that you were at the Porter Tunnel Mine?

WITNESS CAWLEY: I went on August 17 on a violation follow-up, which means these citations that these three inspectors, myself and two other inspectors, issued; to check on those notices.

MR. COOK: Were you back in the West Skidmore Gangway section?

WITNESS CAWLEY: Just to check the two men.

MR. COOK: Did you go to the face of the section while you were there?

WITNESS CAWLEY: No, because the fellows that I had there on the things was over in another section of the mine. But I had to check these two particular individuals for their dog tags.

I walked in, I think it was the sixth or seventh chute to make sure that the self rescuers were there for these employees that were in this area.

Then, we went over to the Holmes Vein; we went in there to checkon the communications system that they had in there.

MR. COOK: Other notices that had been cited, were they corrected?

WITNESS CAWLEY: Yes, they were.

MR. COOK: When was the next time you were at the mine for inspection purposes?

WITNESS CAWLEY: September 1, 1976.

MR. COOK: What type of inspection were you doing at this time?

WITNESS CAWLEY: A complete health and safety.

MR. COOK: A complete health and safety?

WITNESS CAWLEY: That is right; for the entire mine.

MR. COOK: When did you go to the West Skidmore Gangway section on this inspection?

WITNESS CAWLEY: September 2.

MR. COOK: Did you visit all the working places?

WITNESS CAWLEY: On September 2, yes, I did.

MR. COOK: Did you observe any test holes being drilled on this inspection?

WITNESS CAWLEY: Yes, I did.

MR. COOK: Where did you observe those holes being drilled?

WITNESS CAWLEY: There were two holes drilled in the face of the gangway.

MR. COOK: There were two holes drilled in the face?

WITNESS CAWLEY: One in the face and one in the upper rib of the flank.

MR. COOK: How about the bottom?

WITNESS CAWLEY: There was not one that I know of; I did not look for any either.

MR. COOK: On this inspection, did you see anyone

in the act of drilling test holes?

WITNESS CAWLEY: No, I did not.

MR. COOK: Did you check the test holes in any other location on this section?

WITNESS CAWLEY: We were talking to all workers on test holes in that area.

MR. COOK: What kind of discussions did you have with them?

WITNESS CAWLEY: With the workers?

MR. COOK: Yes.

WITNESS CAWLEY: Generally, I asked them all questions on how they are drilling, if they are drilling test holes, and so forth. In fact, I recall,in the monkey heading, they were loading coal out of there; observing those, watching for safety precautions, watching the timber and so forth.

MR. COOK: What was your understanding of the drilling pattern in the gangway and the monkey airway? What was your understanding of their drilling pattern for drilling for abandoned workings, test holes?

WITNESS CAWLEY: I do not know if there was any drilling pattern. I was never told of any particular pattern of any way to drill any working, but they were drilling holes in the face that I know of in the upper ribs. I do not know of any other drilling.

I do not know if that was their pattern or anything; but that is all that I observed them ever drilling.

MR. COOK: How many test holes were they drilling when they were driving the chutes or breasts?

WITNESS CAWLEY: The only ones that I know of, when they were driving the chutes and breasts, would be the west rib and the face.

MR. COOK: The west rib and the face?

WITNESS CAWLEY: Right.

MR. COOK: At any time that you were in that section, did you observe any holes being drilled in the low rib side of the gangway or the monkey way?

WITNESS CAWLEY: I never did.

MR. COOK: Did you ever know of holes being drilled into -- left flank holes in the breasts being drilled -- excuse me; the right flank holes?

WITNESS CAWLEY: No, I never did.

MR. COOK: Were you satisfied, in your mind, that the company's test drilling was in compliance with the federal Coal Mine Health and Safety Act standards?

WITNESS CAWLEY: Well, as far as I would say, yes.

MR. COOK: What is your understanding of the regulations as stated in the federal Coal Mine Health and Safety standards?

WITNESS CAWLEY: It has to be within 200 feet of the

abandoned workings before they have to start the test holes. I did not look at this that close, in the faces or anything on the lower part, because they were way over the 200 foot mark. This I know, because this gangway was roughly 300 feet above the gangway.

Our regulation also says, "one or both rib holes." It says, "The face and either/or both rib holes." It depends on the inspector's decision whether he would require them to have them in both ribs.

MR. COOK: Did you ever have any conversations with the company in which the drilling plans for test holes were discussed?

WITNESS CAWLEY: I never discussed anything about any plan with the company. The only time that I ever discussed anything about test holes was with Sam Klinger; that was just between what he was drilling and so forth.

MR. COOK: During the course of this complete inspection, did you find anything unusual in the mine at any location?

WITNESS CAWLEY: No, I do not think I did; everything that I noticed was in pretty good shape, and the mine, itself, in general, was running a fairly good mine, as far as the federal laws and such that we know of.

MR. COOK: Did you have an occasion to inspect that mine after September?

WITNESS CAWLEY: No, I did not, but I was in the abandoned workings also in September.

MR. COOK: The abandoned workings in the West Skidmore Gangway section?

WITNESS CAWLEY: That is right.

MR. COOK: At what point did you enter the abandoned workings?

WITNESS CAWLEY: Number 10 Chute.

MR. COOK: Were you able to travel in the abandoned workings?

WITNESS CAWLEY: All that you could travel was just into the workings, itself; into the gangway. In fact, Mr. Laird, my supervisor, was with me and we were standing on wooden rails that they used at the time.

It was just the same as it was out at Number 9, the fine coal; and I did discuss thoroughly with Sam on that. I said, "Sam, now, we know this gangway here has to connect onto a slope. Also, below this slope, we are going to have a sump."

Now, we had water in this gangway which was drained. I said, "But the water in the sump is still there." Now, nobody knows how deep the sump is going to be or what type of sump. It depends on the mine.

Generally, if it is a big operation, it would be like -- hold enough water and they would not have to pump

overnight. Smaller mines might hold enough water in their sumps to last a weekend, that it would not flood their gangways.

Now, so you would have maybe small, little gangways out below that we would have to watch. It was just like what we call a sump, something to hold the water for that period of time.

I discussed with him how he was going to approach this. He says, "exploring these holes through this gangway and breaking in each particular chute and tap them in and explore as you go, he would know before he got into there what it was. You can easily tap and there would not be any danger, but there were test holes always being drilled.

But by exploring above, you could see it, because you could shine your light;roughly 50 feet would be the distance to his next chamber where the sun will break in.

MR. COOK: So, after this complete inspection, you have not had an occasion to go back to the mine for inspection purposes prior to the inundation?

WITNESS CAWLEY: No, I have not.

MR. COOK: Were you assigned to other mines to inspect as part of the rotation system; is that the reason?

WITNESS CAWLEY: That is right.

MR. COOK: I have a few questions I will get to in a moment. But, for the moment, I will turn it over to Mr. Vicinelly.

MR. VICINELLY: Earl, you stated that you had discussed the abandoned workings and the possibilities of the slope, and, if I am correct, I thought you said the extent of it or the possibility of it extending --

WITNESS CAWLEY: This is of the one where they met at 15 Chute. We know now; we didn't know where it was then; but right now, it is roughly that 15 Chute one.

MR. VICINELLY: But, when you went to the mine and you had portions of the Weaver, Bush and Miller Mine --

WITNESS CAWLEY: No; that isn't so. We knew nothing of the Miller Mine, or, as you call it by name, the Bush Mine, or even the Weaver Mine. It was just an abandoned workings.

There were no markings on it, personally, on the map, that identified either mine.

MR. VICINELLY: Okay, so that I can identify, now, which is the Weaver, Bush and Miller Mine, the pencil marks that you talked about extending down, which mine would that have been marked on?

WITNESS CAWLEY: It would be marked on the Weaver.

MR. TODD: Perhaps, Mr. Vicinelly, he could point at that.

MR. VICINELLY: I have no objection.

WITNESS CAWLEY: The Weaver Mine, now. And that, if he stretches right across, would be the gangway that they followed.

Now, this they started from Number 8 Chute and was following this gangway out to it.

(Indicating.)

WITNESS CAWLEY: Probing it as they went.

MR. VICINELLY: And, that is the extent of the abandoned mine that you saw?

WITNESS CAWLEY: That is right.

Now, during our conversation, there was mention of the heading, water from another mine; that they were tapped in at an upper level, but that must have been stripped out. I don't know nothing about it. It wasn't on no map.

MR. VICINELLY: Earl, when you stated that there were two openings shown on the map -- I think you called them openings.

WITNESS CAWLEY: Portals.

MR. VICINELLY: Portals. Which two portals was that?

WITNESS CAWLEY: That would be the Weaver and now, as you call it, Bush. They are engineering marks.

MR. VICINELLY: But, it indicated the openings to the Bush?

WITNESS CAWLEY: Right. That is what you call the Bush now.

MR. VICINELLY: Yes, identified now as the Bush. Just so we know what we are talking about, we will call it the Bush Mine.

WITNESS CAWLEY: Right.

MR. VICINELLY: Was there any discussion on that?

WITNESS CAWLEY: No.

MR. VICINELLY: Did you notify your foreman about those two openings?

WITNESS CAWLEY: He was with me.

MR. VICINELLY: Your foreman was with you, your supervisor?

WITNESS CAWLEY: Right.

MR. VICINELLY: And, he was aware of those two openings?

WITNESS CAWLEY: Definitely. We could see them.

I did ask Sam how they did get them on the map; and, he says "probably when they stripped they plotted them." Because I asked him about them, and he says "probably when they stripped the area they found these openings and they plotted them on the map."

MR. VICINELLY: Did you ask him if, at that time, there were any maps available or if he had any knowledge of the extent of mining?

WITNESS CAWLEY: The only thing during our conversation of these workings when we were there -- when we talked about the head, this water and stuff and getting into the sump, he did discuss -- a man must have been killed in this Bush Mine; and, he said the workers from the Weaver Mine went

up this slope and crossed an upper level and over to the Bush mine, and went down that way, instead of going completely outside, which showed a connection between the two of them.

And, during our discussion, I mentioned to Sam, "Well, what are you going to do there?" He said, "First, if I can get over to the slope and its travelable, we'll go up; and, if I can get over to it, then I can make my decisions then." He can see then.

That would be the thing here. But, first, you have got to decide: can you get it there? That was a good ways away from the mine itself.

But, that was his intentions. If he could travel this slope, to go up it and see if there was another level up above him, and if he could travel over to it.

That was one of our discussions that we had. We discussed these here and how he was going to approach this, because I was concerned about that sump.

I discussed it pretty thorough more than once.

MR. VICINELLY: After you discussed that with Sam you were satisfied with two holes being drilled?

WITNESS CAWLEY: Well, the only danger that they had -- see, here you have a gangway and your proper procedure on that --

The water is out; you are following the gangway. Here you have something and you are underneathe; why drill

down? When you are 300 feet away from something that is above you -- you already have the gangway, the workings. What would be any sense in drilling down?

MR. VICINELLY: Earl, did you know you were 300 feet below it?

WITNESS CAWLEY: Well, figure those countless headings and you can see, plus, don't forget, you are into the face. I would say you were, roughly, maybe 600 feet away.

MR. VICINELLY: Did you and your supervisor discuss the two openings that were shown on the map at any time prior to the break-in?

WITNESS CAWLEY: Only what I just stated we discussed, and that is as far as the extent of that, because nobody knew anything about the Bush to discuss.

First, you have got to find something and know something about it. And, their plans were, if he could get up that slope, maybe he could find anything.

And, it is the company's responsibility and their engineer's, to give us information. Now, if we don't know anything, I mean, we can't do it. We only can act with the facts that we have.

And, these maps are certified by a certified engineer. They should know about it.

MR. VICINELLY: I think you stated that you went up

into some abandoned workings. Where was that at?

WITNESS CAWLEY: Number 10 Chute.

MR. VICINELLY: How far were you able to travel there, or were you able to get up in there?

WITNESS CAWLEY: Just on the rails. That is as far as we could go. Their intentions was to take the pillars out up above. They were still in. The company left the pillars in. And as they were going back they were going to take them out.

MR. VICINELLY: Was that holed through when you were up in there?

WITNESS CAWLEY: Number 10?

MR. VICINELLY: Yes.

WITNESS CAWLEY: Oh, yes, definitely. How could we stand on the wooden rails if it wasn't?

MR. VICINELLY: Oh, I am sorry.

WITNESS CAWLEY: We were standing on this gangway that was going in. They didn't use steel rails; they were using wood.

And, in fact, my supervisor, Mr. Laird, he even asked; he said, "Where's these wooden rails you were talking about?" He says, "Well, you are standing on them."

MR. VICINELLY: How far were you able to travel in there, if any?

WITNESS CAWLEY: You couldn't travel anything unless

wanted to crawl on your belly on top of coal under unsupported roof that you don't know nothing about.

MR. VICINELLY: I have no other questions.

MR. COOK: Mr. Shober.

MR. SHOBER: Mr. Cawley, did you make any inquiries about the portals located west of Porter Tunnel Mine workings on the mine map?

WITNESS CAWLEY: Inquiries? What do you mean?

MR. SHOBER: As to whether the operator did know anything about workings that may have been in that area. Was it ever mentioned?

WITNESS CAWLEY: No.

MR. SHOBER: Did anyone mention any distance that someone may have surmised that the abandoned Bush slope or the workings were located west of the active West Skidmore Gangway workings?

WITNESS CAWLEY: We did not discuss anything, and there was nothing ever told us about any slope or Bush workings.

MR. SHOBER: The reason I asked that, Mr. Cawley, it was mentioned earlier to Mr. Merit, as Mr. Laird mentioned, that the abandoned workings were holed into ahead of time off Number 8 Breast.

WITNESS CAWLEY: That is right; I mentioned that.

MR. SHOBER: This is exactly what was said, all right? "Operator estimated it would be about 200 foot west

of this location. Although it was not known where the location of the abandoned workings off the Bush Slope were, as it happened, as I see it, once again we were only guesstimating, but actually, maybe the active workings were advanced; they had to be closer to the abandoned Bush workings than we surmised or estimated, because of what happened in Number 8 Chute at that time.

"It was just that we thought" --

MR. TODD: Mr. Shober, I do not recall that testimony.

MR. SHOBER: No, it was mentioned, Mr. Todd --

MR. TODD: In terms of the Bush Mine.

MR. SHOBER: No. There wasn't any figures mentioned as to what the distance might be. We did all feel that there were abandoned workings in the area, as mentioned earlier in the testimony.

But, I was just thinking that Mr. Laird did say that when the abandoned workings were holed into off Number 8 Breast that someone did say that this was ahead of time.

WITNESS CAWLEY: That is right. I stated that. Mr. Richter told me that.

MR. SHOBER: I just want to get that straight for my mind, Mr. Cawley. Thank you.

MR. COOK: Mr. Tisdale.

MR. TISDALE: Mr. Cawley, I direct your attention

back to the gangway that was being intersected with Number 10, 11, 12, 13 Breasts.

Now, you made mention of a sump below that gangway. What is a reasonable guess as to how deep that sump would be below that gangway?

WITNESS CAWLEY: Well, that varies. I estimate somewhere around 30 feet, and then they drive off of that 30 feet.

There is all possibilities of different sumps made in the anthracite. Different mines have different ways. Some of them just make a slant. It depends on how they are loading their coal -- to make it easier. It depends what equipment they have to do it.

Some make it just 30 feet down and that is it. Some of them might come up the length of their buggy from the 30 feet to the 20 foot mark and drive little offsets.

Now, the reason I say come up the length of their buggy, when they are driving east or west, to make a little more opening for water. They have to load this coal out, and it is easier to load it right into the buggy and then take it right up the slope. So, they drive a little bit below this.

It just depends on the type of operations and their pumping facilities for the thing. But, they generally run the width of their gangway. That way you would drive off of

this slope. It was just to hold water; that is what I mean by sump. But, the size of it, you don't know.

Like I said, they might drill the little off-sets.

MR. TISDALE: Mr. Cawley, I would like to direct your thinking back to the intersection of the impounded water at Number 8 Chute -- Number 8 Breast.

That occurred on June 2?

WITNESS CAWLEY: I didn't know about it until the 4th, and I surmised this on the second shift of the 2nd -- it was either the second shift of the 2nd or the second shift of the 3rd. Again, either way, I would not know definitely, because my notice was -- the reason I estimated that, this was 7:00, maybe quarter to 7:00 in the morning of the 4th when Inspector Updegrave come in and told me about this.

Now, he got the call the night before. Now, if it happened on the second shift, did the miner, as soon as he got out, or did he wait until the following day to call? Now, this I don't know.

MR. TISDALE: Do you know whether the individual that advised MESA about that occurrence was an official of the company?

WITNESS CAWLEY: No, I do not. The only one that I would say -- Inspector Updegrave would know that answer.

I do not think so, though.

MR. TISDALE: Does the company have an approved

training program?

WITNESS CAWLEY: Not that I know of.

MR. TISDALE: Do the federal regulations require a training program?

WITNESS CAWLEY: Yes, they do. What we do, we generally fill out a form that the company has and then submit it to our district office, who in turn, I think, turns it over to Mr. Slusser, and he takes care of it.

They generally say available whenever MESA can give it to them, or vice versa, and that is how they get their training.

But, as far as me knowing they are planned and anything like that, I do not know anymore farther than that. It is only what Mr. Slusser does to them.

MR. TISDALE: Does the company have such a plan? Have those procedures been done?

WITNESS CAWLEY: Yes, those procedures have been done for them. Now, I don't know how much training that Slusser did give to those people; but, he was giving that they requested it.

MR. TISDALE: Well, my original question was to determine whether the company had a plan to train.

WITNESS CAWLEY: Well, that was the only plan that I would say that they had that I know of; plus, the state, I think, has people coming into them on safety lights and so

forth, also, besides.

MR. TISDALE: On your inspection of the West Skidmore South Dip section in September, did you inspect the gangway face?

WITNESS CAWLEY: Yes, I did.

MR. TISDALE: Did you measure the test holes drilled in that face?

WITNESS CAWLEY: Yes, I did.

MR. TISDALE: How deep were the test holes?

WITNESS CAWLEY: Sam Klinger pushed the steel in I would estimate about 27 feet in the one, and the one was a little bit more. The flank hole was a little bit more, but it was around 27 feet.

MR. TISDALE: I don't have any other questions.

MR. COOK: Mr. Strain.

MR. STRAIN: Mr. Cawley, when you were speaking to Mr. Klinger about the old workings, did you know, at that time, the extent of the Bush workings?

WITNESS CAWLEY: No.

MR. STRAIN: Did Mr. Klinger know that?

WITNESS CAWLEY: If he did, he did not tell me about it.

MR. STRAIN: Did you know how far down they might come?

WITNESS CAWLEY: No.

MR. STRAIN: Or how far over toward the West Skidmore section they might come?

WITNESS CAWLEY: What do you mean by how far over in the Skidmore section?

MR. STRAIN: How far toward the workings of the West Skidmore section they might come?

WITNESS CAWLEY: As far as the Bush, nothing was discussed.

MR. STRAIN: Did you know how far down they would come?

WITNESS CAWLEY: No. I have no way to know.

MR. STRAIN: Did anybody you talked to know how far down they might come?

WITNESS CAWLEY: Nobody that I know of.

MR. STRAIN: Is it possible that they would have extended below the gangway of the West Skidmore section?

WITNESS CAWLEY: How would I have any -- the things that I can go on are only the facts that were given to me, and that is all I have to go by.

MR. STRAIN: I didn't ask you what you know. Is it possible that they could have gone down below the West Skidmore gangway?

WITNESS CAWLEY: There is no way I would know that.

MR. STRAIN: Were you at all concerned about the possibility of encountering those workings below the West

Skidmore Gangway?

WITNESS CAWLEY: I didn't know nothing about them.

MR. STRAIN: Were you at all concerned?

WITNESS CAWLEY: Well, if I don't know if anything is down there, why should I be concerned of something that I don't know nothing about?

MR. STRAIN: Were any of the people that you talked to at the mine concerned about finding abandoned workings below the West Skidmore Gangway?

WITNESS CAWLEY: Nobody discussed anything with me about any workings below the Skidmore Gangway or anything that was even extended down to that depth.

MR. STRAIN: Well, when you don't know where the abandoned workings are, what is the procedure that you require for the mine to follow in order to find those workings?

WITNESS CAWLEY: Rephrase that statement. We already are in the abandoned workings when I am at this inspection.

What abandoned workings are you talking about?

MR. STRAIN: The Bush workings.

WITNESS CAWLEY: We don't know about those; and, they are roughly, from when I was there, I would say a thousand feet away. I wouldn't be concerned of workings that are roughly a thousand feet away from me. I am worrying about the workings that I am right in now that we are dealing with, that has a danger that is closer.

We are only looking for the safety of the miners. This is our main thing; the workings that they are in now, there is men in there now. That is what I am worrying about.

MR. STRAIN: How were you able to ascertain that the workings were a thousand feet away?

WITNESS CAWLEY: Well, you have your spot of your portal, and we didn't hit this. And then there is a difference between your two portals that you have up there. Then you are roughly -- from the portal of this here Weaver mine until we get out is a good distance here that was drawn in temporary with a pencil. If you would just stick your rule and measure the distance and compare it, you would understand that.

MR. STRAIN: Okay; that's all the questions I have, Mr. Cook.

MR. COOK: Mr. Phares.

MR. PHARES: I have no questions of Mr. Cawley.

MR. COOK: There are some questions from the audience.

Did you ever discuss the test hole drilling pattern with state inspectors?

WITNESS CAWLEY: Never.

MR. COOK: The man said they drilled holes into the water on June 3; the inspector said he was in the mine on June 4 and there was no water running; others said the water ran for weeks at a time, at least a month. How come he didn't

see any water?

WITNESS CAWLEY: You are talking about different test holes.

MR. COOK: I am assuming they are talking about where you cut into the --

WITNESS CAWLEY: The lower part. In other words, what I was talking about, I am talking about the upper level there I think on your map would show a 12-foot test hole?

Now, you go down there 50, 60 feet, and you are drilling test holes. There the water might run, but here you are at the top --

MR. COOK: What you were talking about was the uppermost drill hole drained off --

WITNESS CAWLEY: Right.

MR. COOK: -- and, they were tapping as they came back down.

WITNESS CAWLEY: Right. And, they were tapping below, working their way back up, that the men wouldn't have to get under water.

In other words, if you would start at that 12-foot test hole on the top and drop down two feet and don't drain it off anymore, either you would have to wait until that drained off, or you are going to put a man directly under that water to drill the next test hole; and that isn't a sensible way to do it.

If you can start from the bottom and you drill up, you can leave the water run; and then drill another hole up and you can have more than one hole draining at the same time.

MR. COOK: So, there was water running in some of the --

WITNESS CAWLEY: They didn't have no water punched through yet.

MR. COOK: They were just in the process of drilling?

WITNESS CAWLEY: That is right.

MR. COOK: And you had discussed the drilling plan that they would follow?

WITNESS CAWLEY: That is right.

MR. COOK: With old abandoned mine workings being holed or drilled into, would it not be appropriate for you as an inspector to issue an order that further investigations be made to probe into this area, and other work be stopped inside this area until more certain information was confirmed?

WITNESS CAWLEY: Already the men were removed from this section. There was no men working in this section.

So, our primary objective is the safety of miners. If there is no miners in there, their hazard -- you have got to first prove a hazard in there. You have got to show me a hazard first before I can issue an order.

In other words, if I don't know and don't see anything, and there is no men in there, and they are doing the

only logical thing, there is no hazard.

How else could they get at this water without drilling it? You have to drill it, and there is no other way you can do anything about it.

Don't forget, at this particular time you don't know what you are going into, if any. I mean, you are not positive until you find out. You are only surmising things.

MR. COOK: Under federal regulations, are coal companies required to report to MESA instances of breaking through into old works?

WITNESS CAWLEY: Yes, they are.

MR. COOK: Did the Kocher Coal Company, for the Porter Tunnel Mine, report in, to your knowledge?

WITNESS CAWLEY: Not to my knowledge. The only information that I had of this break-in was when Mr. Updegrave gave it to me.

MR. COOK: Would there be any further questions?

Mr. Vicinelly.

MR. VICINELLY: Mr. Cawley, when you went up to Number 8, was there any evidence of a blowed-out shot there?

WITNESS CAWLEY: It was not a blowed-out shot, now, like you call a blowed-out shot. Explain yourself, what you mean, first, by a blowed-out shot. Do you mean a blow-in shot?

MR. VICINELLY: A blow-in shot, okay.

WITNESS CAWLEY: No. And, logically, I would doubt

that if you have a 12-foot hole it wouldn't blow in on a 6-foot cut. It stuck. And it was stated it was a stuck cut.

MR. VICINELLY: Would you explain that to me again? I am a bituminous man, and when you say "stuck" --

WITNESS CAWLEY: If you drill a hole, and drill two of them, and you have one of them four foot apart, for example, and you put one stick of powder in and then you go in and break this four feet and it might not break if you didn't have enough powder. So, when you fired and when you went back in you are going to look at nothing.

In other words, all that it did was just burn the holes fast. It didn't take no ground. That is a stuck cut.

Now, when you're talking about a blowed-in cut, that means when you loaded the cut up, it blowed inward, into an opening.

Now, if it blowed into an opening, you are not going to be able to drill 12 feet. If you drill a 6-foot cut and it blows into an opening, you can't drill 12 feet. It is not logical.

MR. VICINELLY: You stated that sometime you were underground and you were approximately a thousand feet from -- you estimated approximately a thousand feet from abandoned workings; and, if I am correct, you said you weren't too concerned because you were a good piece away from it; is that correct?

WITNESS CAWLEY: What I said there was my primary objective was this sump, which according to drawing in pencil -- if you would draw it in pencil, you are roughly five chutes away, which is roughly 200 to 300 feet, at least, roughly, if the maps then would be correct.

Then you have a span between these two portals; add them together and I just estimated when I said a thousand. Maybe it is only 700, 800 feet; I mean, I didn't take a rule and measure it. But, that is what I meant by the distance.

In other words, already you know, from this Weaver slope, the portal, if you drawed the line down to what they hit, what they were in, the extent that it was in, and then you take your rule and measure it on a map, then you would see your distance.

MR. VICINELLY: But, again, I think you felt at that time that you were approximately a thousand feet away --

WITNESS CAWLEY: You were a good distance, of any workings. I mean, you are not going to hit workings on top of other workings right in that area. First you have got to get one before you look for anything else.

MR. VICINELLY: At that time did you issue any orders to the foreman or the company; that when you got closer you should drill more test holes?

WITNESS CAWLEY: I issued no orders on that situation because the hole that they were drilling was sufficient, and

the way they were going, to reach that. In other words, if you probe through that gangway and follow and then break-in, and at the same time you are still drilling face holes in your upper rib, there was no way that you could hit and not know it ahead of time, because already you are advancing 50 feet.

MR. VICINELLY: Did you discuss with management that they should consider drilling holes, more holes, as they got closer?

WITNESS CAWLEY: In my judgment they were sufficient the way they were drilling them.

MR. VICINELLY: I have no other questions.

MR. COOK: Are there any other questions?

(No response.)

MR. COOK: Thank you, Mr. Cawley.

(Witness excused.)

MR. COOK: At this time we would like to call Mr. Charles Klinger.

Whereupon,

CHARLES KLINGER

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS KLINGER: Charles C. Klinger.

MR. PHARES: What is your address, Mr. Klinger?

WITNESS KLINGER: 1034 East Main Street, Hegins, Pennsylvania.

MR. PHARES: Mr. Klinger, before we begin the questioning I want you to understand that this is a formal investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS KLINGER: I do.

MR. PHARES: Would counsel enter his appearance, please?

MR. TODD: My name is David Todd. I am an attorney with the Department of the Interior, Office of the Solicitor, serving as counsel for MESA.

MR. PHARES: Thank you.

MR. COOK: Mr. Klinger, what is your total mining experience?

WITNESS KLINGER: I have about 19 years of mining experience, and about 6 years of MESA.

MR. COOK: You have been with MESA for six years?

WITNESS KLINGER: Yes.

MR. COOK: What office are you assigned to?

WITNESS KLINGER: Schuylkill Haven office.

MR. COOK: Have you always been assigned to this office since you have been with MESA?

WITNESS KLINGER: Yes, sir.

MR. COOK: As you know, we are discussing the Porter Tunnel Mine. When were you assigned to start inspecting the Porter Tunnel Mine -- when did you first know that that would

be your mine to inspect for six months?

WITNESS KLINGER: September of 1976 until March of this year.

MR. COOK: When did you make your first inspection of this mine?

WITNESS KLINGER: November, that ran into December, 1976.

MR. COOK: Before you make an inspection of a mine, or before you go out to the mine, what do you normally do?

WITNESS KLINGER: If there is time, the day before the inspection, I review the ventilation plans, roof control plans, and the mine map.

MR. COOK: Did you do that before making your first inspection at this mine?

WITNESS KLINGER: I reviewed the map that was available.

MR. COOK: What did that map, at that time, show in relationship to old workings in the vicinity of the West Skidmore section?

WITNESS KLINGER: That map didn't show old workings; it was a ventilation map.

MR. COOK: Was there anything on that map at all that indicated to you old workings?

WITNESS KLINGER: As I recall, no. Not the 1976.

MR. COOK: Do you recall, the map that you were

looking at, what date was on that map?

WITNESS KLINGER: This here map here?

MR. COOK: No. The one you looked at in the file before you went to the mine.

WITNESS KLINGER: It was July 8, and it did have where they holed into the old workings.

MR. COOK: On the July 8, 1976 map it had where they had holed in to the old workings?

WITNESS KLINGER: Number 8. I do believe it was Number 8.

MR. COOK: Was there any indication at all, on the map that you were looking at, of where the old Weaver or Bush slope might be?

WITNESS KLINGER: Not that I can recall.

MR. COOK: When you arrive at a mine, what is normally the first thing that you do?

WITNESS KLINGER: When I arrive at the mine I usually ask to review the mine maps that are available, and they bring them to me.

MR. COOK: Before starting this November inspection did you do that?

WITNESS KLINGER: Yes, sir.

MR. COOK: Who showed you the maps?

WITNESS KLINGER: If I can think correctly, it was Sam Klinger that brought the maps.

MR. COOK: Where did you examine these maps?

WITNESS KLINGER: In the office, in the back.

MR. COOK: At that time, was there anything to indicate old workings in the vicinity of the West Skidmore Gangway section on the company maps that you were looking at?

WITNESS KLINGER: The company maps had the Weaver Mine located.

MR. COOK: Approximately how much of the Weaver Mine did they have located on the map?

WITNESS KLINGER: In as far as about like that, the Weaver Mine; yes.

(Witness indicating on Exhibit 3.)

WITNESS KLINGER: Plus the fork, and the old bootleg -- old bootleg slope.

MR. COOK: The old bootleg slope and the old bootleg gangway?

WITNESS KLINGER: The old bootleg slope.

MR. COOK: Just the old bootleg slope?

WITNESS KLINGER: Right -- to the fork.

MR. COOK: To the fork?

WITNESS KLINGER: To the fork.

MR. COOK: Would you point that out, please, to the fork?

WITNESS KLINGER: To the fork right below.

(Witness indicating on Exhibit 3.)

MR. COOK: For the record, Mr. Klinger is pointing to Exhibit 3.

During this inspection did you **inspect** the West Skidmore Gangway section?

WITNESS KLINGER: Yes, sir.

MR. COOK: What date did you inspect it?

WITNESS KLINGER: The 23rd.

MR. COOK: Do you recall approximately the location of the face of the gangway, the monkey airway, at that time? What chute were they inby?

WITNESS KLINGER: If I can remember correctly, the gangway face was about 50 feet inby Number 15 Chute.

MR. COOK: Just inby Number 15 Chute?

WITNESS KLINGER: Right.

MR. COOK: On this inspection did you visit all of the working places?

WITNESS KLINGER: Yes, sir.

MR. COOK: On this inspection did you see test holes being drilled?

WITNESS KLINGER: No, sir.

MR. COOK: Did you check any test holes on this inspection?

WITNESS KLINGER: No, sir. I was pointed out some test holes, but I did not check them.

MR. COOK: Were you aware of the test hole drilling

pattern that the company had instituted in this section?

WITNESS KLINGER: No, sir.

MR. COOK: Did you discuss it with anyone?

WITNESS KLINGER: No, sir.

MR. COOK: Did you have any understanding at all of -- you said test holes were pointed out to you. Did you have any understanding at all of what sort of pattern they were following with their test holes?

WITNESS KLINGER: What sort of pattern they were following?

MR. COOK: Yes, sir.

WITNESS KLINGER: Only what is required under our regulations.

MR. COOK: What would that have been?

WITNESS KLINGER: As far as the map indicated, it would be workings above.

MR. COOK: Were you satisfied that those requirements were being met?

WITNESS KLINGER: I was satisfied; yes, sir.

MR. COOK: Were down holes discussed at all during the day of this inspection?

WITNESS KLINGER: No, sir.

MR. COOK: Who was traveling with you on this inspection?

WITNESS KLINGER: The mine foreman.

MR. COOK: You and the mine foreman?

WITNESS KLINGER: Right.

MR. COOK: Was anyone else with you?

WITNESS KLINGER: No, sir -- yes, sir; Clarence Miller, the state inspector, was with me at that inspection that day.

MR. COOK: The state inspector, yourself, and Mr. Sam Klinger?

WITNESS KLINGER: Off and on. The state inspector had left and went somewhere and we proceeded, and we met in the robbings; there were robbings in 1, 2 and 3, I think, Chute.

MR. COOK: In Chutes 1, 2 and 3.

WITNESS KLINGER: Some in that respect -- 3, 4 and 5. Then we met up with the state again, right.

MR. COOK: That is where you met up with the state inspector there?

WITNESS KLINGER: Yes, sir.

MR. COOK: And, he had been with you prior to that on this section?

WITNESS KLINGER: Another day?

MR. COOK: No. On the same day. I thought you said you met up with him again.

WITNESS KLINGER: No, no. We traveled together. We traveled together, but during the inspection, he had left

us and then picked us up when we were in the robbed out areas, where they were recovering pillars; you know.

MR. COOK: But, all three of you were on the same section?

WITNESS KLINGER: Yes, sir; the entire day.

MR. COOK: Did you have occasion to go back on that section during this inspection?

WITNESS KLINGER: No, sir, I didn't.

MR. COOK: When was the next time that you were back in the West Skidmore Gangway section?

WITNESS KLINGER: February 10, 1977.

MR. COOK: What type of inspection were you doing at that time?

WITNESS KLINGER: Health and safety.

MR. COOK: A complete inspection?

WITNESS KLINGER: Yes; it is a complete health and safety.

MR. COOK: And, you were back on the West Skidmore Gangway section on February 10?

WITNESS KLINGER: The 10th. I started on the 7th.

MR. COOK: At that time, if you recall, where was the face of the gangway?

WITNESS KLINGER: It was 50 feet inby Number 17 Chute.

MR. COOK: Did you notice anything unusual in the

gangway at that time?

WITNESS KLINGER: No, sir.

MR. COOK: Were they doing any extra timbering?

WITNESS KLINGER: No, sir.

MR. COOK: Was there any indication that the pillar above them wanted to run?

WITNESS KLINGER: Number 16 had ran away.

MR. COOK: Number 16 in the monkey airway?

WITNESS KLINGER: Right.

MR. COOK: Were they having any problem with the coal running in the gangway?

WITNESS KLINGER: No, sir.

MR. COOK: On this inspection did you observe any test holes being drilled?

WITNESS KLINGER: Yes, sir.

MR. COOK: Where did you observe those?

WITNESS KLINGER: In the face of the gangway. Inby Number 17 Chute.

MR. COOK: Inby Number 17 Chute?

WITNESS KLINGER: Right.

MR. COOK: How many holes did you observe drilled?

WITNESS KLINGER: Two.

MR. COOK: Where were those holes drilled?

WITNESS KLINGER: There was one flank hole and one straight.

MR. COOK: Which flank hole?

WITNESS KLINGER: The right; high side.

MR. COOK: The high side?

WITNESS KLINGER: Right.

MR. COOK: How deep were those holes drilled?

WITNESS KLINGER: According to the steels, about 30 to 35 feet.

MR. COOK: Did you go into the monkeyway?

WITNESS KLINGER: Yes, sir.

MR. COOK: Did you observe test holes in that working place?

WITNESS KLINGER: No, sir.

MR. COOK: Were they advancing a breast at this time?

WITNESS KLINGER: Number 17 Chute was being advanced.

MR. COOK: Had they already turned it to the slant when you were there?

WITNESS KLINGER: No, sir. There was about two cuts. At that time, they were timbering; they were forepoling and preparing a double set of timber.

MR. COOK: Did you notice any test holes at all in this working place?

WITNESS KLINGER: No, I didn't.

MR. COOK: Were there any other chutes that were being advanced at that time?

WITNESS KLINGER: No, sir. Number 12, there was a crew out in that area.

MR. COOK: Number 15 Chute and Number 15 Breast, had it cut into the old Weaver Mine at this time?

WITNESS KLINGER: Yes, sir.

MR. COOK: Did you have occasion to go up and look in the old Weaver Mine?

WITNESS KLINGER: I didn't look in the old Weaver; I went up to.

MR. COOK: You went up to?

WITNESS KLINGER: Right.

MR. COOK: And, you observed the hole into it?

WITNESS KLINGER: Right.

MR. COOK: Had water been encountered at that location?

WITNESS KLINGER: I can't answer that because it happened before I made the inspection there, and I don't know if there was a discussion made of if there was water there or not; I couldn't tell you.

MR. COOK: There was no discussion concerning it at that time?

WITNESS KLINGER: No.

MR. COOK: Who traveled with you on this inspection?

WITNESS KLINGER: Mr. Sam Klinger.

MR. COOK: Did you discuss the test hole drilling

pattern at all while you were there?

WITNESS KLINGER: No, other than what our requirement is, 1701.

MR. COOK: Did anyone at any time ever tell you that they were drilling the down holes?

WITNESS KLINGER: No, sir.

MR. COOK: Did you ever, at any time, see down holes being drilled?

WITNESS KLINGER: To my knowledge, I never saw any drilled.

MR. COOK: What was the extent of the old works on the maps that were available to you at that time?

WITNESS KLINGER: The same area.

MR. COOK: The same area?

WITNESS KLINGER: The same area -- to the fork, where I mentioned before.

MR. COOK: Mr. Vicinelly.

MR. VICINELLY: When you looked at the fork, and at that time when you were making inspection and review of the map, did you feel that that is all the farther down that that slope was driven?

WITNESS KLINGER: Well, you are looking at a map, and you can assume; it is just there, you know?

MR. VICINELLY: But, you don't know, in your mind at that time -- you were satisfied that that is all the deeper

that slope went?

WITNESS KLINGER: I was satisifed that that is all the deeper that slope went?

MR. VICINELLY: On that mine map.

WITNESS KLINGER: Well, there is a possibility that it could have been deeper, sure.

MR. VICINELLY: How deep?

WITNESS KLINGER: Now, we are talking about before the accident?

MR. VICINELLY: Yes, I am.

WITNESS KLINGER: I don't know.

MR. VICINELLY: You don't know that?

WITNESS KLINGER: No. The information available didn't even indicate--insofar as I had access to, it went down to where it was indicated.

MR. VICINELLY: But, there is a possibility it could have gone down a thousand feet?

WITNESS KLINGER: Anything is a possibility.

MR. VICINELLY: But, with that possibility, you didn't consider drilling a third hole?

WITNESS KLINGER: Well, the workings indicated above. They were complying with our regulations. We were looking for the water above. They were complying with the 75-1701.

MR. VICINELLY: I am not doubting that they weren't complying with your regulations. I am just asking, in your

own mind and with the number of years of experience that you have in the coal mines, did you have any idea, with your experience, of the extent of that mine?

WITNESS KLINGER: No, sir. No, sir.

MR. VICINELLY: But, it could have gone a thousand feet, it could have gone 800 feet, any distance at all. You didn't know that?

WITNESS KLINGER: Yes, sir; I didn't know that.

MR. VICINELLY: Did you discuss that with your supervisor at any time, the forks?

WITNESS KLINGER: No, sir.

MR. VICINELLY: You stated that the state inspector was with you and he left. Can you tell me why he left?

WITNESS KLINGER: No, sir; I don't know.

MR. VICINELLY: How far did he travel with you?

WITNESS KLINGER: He traveled into the face of the -- if I can remember correctly, I don't have notes on this, the face of the gangway. Then I met him in the robbing sections.

MR. VICINELLY: Did he tell you he was leaving?

WITNESS KLINGER: No, sir.

MR. VICINELLY: When you ran into him again, or met him again up in the robbings, what was he doing?

WITNESS KLINGER: What I was doing, conducting --

MR. VICINELLY: No; my inspector.

WITNESS KLINGER: What I was doing, conducting an

inspection. We did have a conversation there about drilling and about what they do if water did ever break, you know.

MR. VICINELLY: What was that conversation?

WITNESS KLINGER: About that they would have access to the second outlet; they were closer to it, these men in that area.

MR. VICINELLY: What was the discussion on drilling?

WITNESS KLINGER: The drill plan? There was no discussion on drill plan.

MR. VICINELLY: You stated that you looked at the ventilation map.

WITNESS KLINGER: Yes, sir.

MR. VICINELLY: Did you also get a mine map?

WITNESS KLINGER: You mean at the field office?

MR. VICINELLY: Yes.

WITNESS KLINGER: I didn't see any at the field office.

MR. VICINELLY: I may have misunderstood you, and if I did, correct me; you stated that there are two maps that you received, a ventilation map and a mine map.

WITNESS KLINGER: I didn't state that.

MR. VICINELLY: You didn't? Then, I am sorry.

Under MESA's regulations, what types of maps is the coal company required to furnish you?

WITNESS KLINGER: They are required to furnish an

up-to-date mine map every six months.

MR. VICINELLY: Is that the same as a ventilation map?

WITNESS KLINGER: No, it isn't. A ventilation map is not certified. An up-to-date mine map is certified.

MR. VICINELLY: What does the up-to-date mine map show you?

WITNESS KLINGER: The up-to-date mine map?

MR. VICINELLY: Yes.

WITNESS KLINGER: An up-to-date mine map gives you more detail of the vein that you are working; it gives you robbed out areas, if any; elevations. Where, a ventilation plan gives you more scope on ventilation.

MR. VICINELLY: Does the mine map -- not the ventilation map -- show more of the abandoned workings than is on the ventilation map?

MR. TODD: Are you just generally speaking, or are you referring to a particular map, Mr. Vicinelly?

MR. VICINELLY: I am referring to the mine map --

MR. TODD: Generally speaking?

MR. VICINELLY: Yes. Is the same information on the mine map that is on the ventilation map?

I guess what I want to know is: the same information on the abandoned workings that you had on the ventilation map, was it on the mine map?

WITNESS KLINGER: There is no mine map at the field office.

MR. VICINELLY: You have got me confused now.

WITNESS KLINGER: The ventilation map is at the field office; but, we have no access to an up-to-date mine map at the field office.

MR. VICINELLY: Where is the up-to-date mine map?

WITNESS KLINGER: I presume it is in Wilkes-Barre.

MR. VICINELLY: Who would have that?

WITNESS KLINGER: Offhand, I would say in Mr. Merit's own files.

MR. VICINELLY: Did you ever review that?

WITNESS KLINGER: The one that is in Wilkes-Barre?

MR. VICINELLY: Yes.

WITNESS KLINGER: I have no access to that map. If it is sent to me.

MR. VICINELLY: Well, I guess what I am concerned with: would there be more information on the mine map than you would have on the ventilation map?

WITNESS KLINGER: Yes, sir.

MR. VICINELLY: Would have?

WITNESS KLINGER: Yes, sir.

MR. VICINELLY: As far as the abandoned workings?

WITNESS KLINGER: Yes, sir.

MR. VICINELLY: You didn't review that to know what

is on it; is that correct, or did you?

WITNESS KLINGER: Do I know what was sent to Wilkes-Barre?

MR. VICINELLY: Yes.

WITNESS KLINGER: No, sir.

MR. VICINELLY: How do you know there is more information on it?

WITNESS KLINGER: How do I know there is more on the -- I said, there should be more on the up-to-date mine map. It is required to have more on the up-to-date mine map.

MR. VICINELLY: You are saying it should have, but you never saw it. Do you have knowledge, is there more on it as far as -- I am only talking about the abandoned mines.

WITNESS KLINGER: Do you mean before the inundation or after?

MR. VICINELLY: Before.

WITNESS KLINGER: No, sir.

MR. VICINELLY: The same information that is on the mine map should be on the ventilation map, as far as the abandoned bootleg mines?

MR. TODD: I believe he said that he did not see the mine map prior to the inundation, and has no knowledge of what was on that mine map.

Was that your testimony?

WITNESS KLINGER: That is correct.

MR. VICINELLY: He also stated that there was more information on it. That is what I would like to get straightened out.

MR. TODD: Is it your testimony that, generally speaking, submission of mine maps under Part 75 requires --

WITNESS KLINGER: -- more detail.

MR. TODD: -- more detail with respect to the --

WITNESS KLINGER: Yes.

MR. VICINELLY: But, you never saw it?

WITNESS KLINGER: No, sir.

MR. VICINELLY: Okay, Charles, that's all I have.

WITNESS KLINGER: And, I want it clear, too, that I did not.

MR. COOK: Mr. Shober.

MR. SHOBER: I don't have any questions.

MR. COOK: Mr. Tisdale.

MR. TISDALE: The regulation requires certain things to be on the ventilation map, Mr. Klinger; is that correct?

WITNESS KLINGER: Yes, sir.

MR. TISDALE: Do the regulations require the workings of adjacent abandoned mines to be on the ventilation maps?

WITNESS KLINGER: I do believe so.

MR. TISDALE: Mr. Klinger, February 10 you were at the face of the gangway.

WITNESS KLINGER: Yes, sir.

MR. TISDALE: I believe you said that you measured the test holes.

WITNESS KLINGER: Yes, sir.

MR. TISDALE: The state inspector was traveling with you in the inspection of portions of that section. Was he with you when you measured the test holes?

WITNESS KLINGER: I believe I stated, and I hope it was -- February 10 the state inspector did not travel with me. That was on the second shift.

November 23 is when the state mine inspector traveled with me, and that was on the day shift.

MR. TISDALE: Did you measure any test holes in November?

WITNESS KLINGER: No, sir.

MR. TISDALE: That's all I have.

MR. COOK: Mr. Strain.

MR. STRAIN: Mr. Klinger, when you observed the two drill holes, was that on your February 10 inspection?

WITNESS KLINGER: Yes, sir.

MR. STRAIN: What were the people doing there at that working place?

WITNESS KLINGER: They just completed the test holes on that inspection when I walked in.

MR. STRAIN: And, they had completed their timber and they were ready to set the charges; is that correct?

WITNESS KLINGER: Yes, sir -- the drill holes were there.

MR. STRAIN: And, the only two drill holes that you found was the one straight ahead and the one up the pitch?

WITNESS KLINGER: Yes, sir.

MR. STRAIN: Did you look for one down the pitch?

WITNESS KLINGER: No, sir.

MR. STRAIN: Did anyone mention one down the pitch?

WITNESS KLINGER: No, sir.

MR. STRAIN: Who were the people there?

WITNESS KLINGER: Philip Sabatino was there.

MR. STRAIN: Did you discuss with Philip Sabatino the drilling of test holes, at all?

WITNESS KLINGER: Drilling the test holes?

MR. STRAIN: Yes.

WITNESS KLINGER: Under the drill plan?

MR. STRAIN: No. The drilling of test holes.

WITNESS KLINGER: He had them drilled. It was not necessary to ask him. I asked him the measurement; we checked the measurement, and that was it.

MR. STRAIN: Did he discuss why he was drilling test holes?

WITNESS KLINGER: It was a procedure that he was taking, an extra safety caution.

MR. STRAIN: Did he discuss abandoned workings in

that area?

WITNESS KLINGER: No, sir.

MR. STRAIN: Did you stay until the blast holes were drilled?

WITNESS KLINGER: No, sir; after that I had walked into the monkey and then up to the Number 17.

MR. STRAIN: Did the men indicate that they were finished with drilling test holes?

WITNESS KLINGER: As far as I know.

MR. STRAIN: Did they say that to you?

WITNESS KLINGER: No, they didn't say it. I was finished with it, and I didn't look for anymore. That is all I was looking for.

MR. STRAIN: From the time you started inspecting this section, did you ever see a mine map of the West Skidmore section?

WITNESS KLINGER: From the time --

MR. STRAIN: Yes.

WITNESS KLINGER: An up-to-date mine map?

MR. STRAIN: Yes.

WITNESS KLINGER: The one that is available at the mine.

MR. STRAIN: You did look at that?

WITNESS KLINGER: Yes, sir.

MR. STRAIN: What did that map show?

WITNESS KLINGER: I indicated before.

MR. STRAIN: Similar to Exhibit Number 3?

WITNESS KLINGER: Yes, sir; right here.

(Witness indicating on Exhibit 3.)

MR. STRAIN: Are you indicating that a projected fork of the Bush Mine slope didn't extend down as far as is indicated on Exhibit Number 3?

WITNESS KLINGER: No, sir.

MR. STRAIN: It didn't extend down as far?

WITNESS KLINGER: No, sir.

MR. STRAIN: It did go forked?

WITNESS KLINGER: Right. Yes, sir.

MR. STRAIN: That's all my questions.

MR. COOK: Mr. Phares.

MR. PHARES: On February 10 when you measured the two test holes which Mr. Sabatino had just drilled, was anyone else there with you in the face of the gangway?

WITNESS KLINGER: I don't recall. I don't think Sam was there at that present time. I am not sure on that.

MR. PHARES: Did you issue any notices of violation on that inspection?

WITNESS KLINGER: Yes, sir.

MR. PHARES: Will you tell us what they were?

WITNESS KLINGER: There was one on insulated J-hooks on their communication cables, and one on escapeways --

escapeway signs.

MR. PHARES: Was that notice abated?

WITNESS KLINGER: Yes, sir, on the 17th.

MR. PHARES: The 17th of February?

WITNESS KLINGER: Yes.

MR. PHARES: On February 10 when you were inspecting the West Skidmore, who was the section foreman at that time?

WITNESS KLINGER: Raymond Keefer.

MR. PHARES: Did you see Mr. Keefer at all during that inspection?

WITNESS KLINGER: I might have met him when I first came in, but the mine foreman, Sam Klinger, had traveled with me on my inspection.

MR. PHARES: Did you see any evidence of past test holes on February 10 when you were at the face of the gangway and further on back the gangway?

WITNESS KLINGER: No, sir. They had occasion to crib the high side rib, so -- no, sir.

MR. PHARES: On February 10 did you have any discussions with any hourly workers regarding test drill holes?

WITNESS KLINGER: I believe I did, on occasion, several occasions, to some of the workmen drilling ahead.

MR. PHARES: What did you tell them?

WITNESS KLINGER: That that is the only way you are going to find out about any abandoned workings ahead.

MR. PHARES: That was on February 10; is that correct?

WITNESS KLINGER: Yes.

MR. PHARES: I have no further questions.

MR. COOK: We have two questions from the audience.

You indicate you issued two notices on your February inspection.

WITNESS KLINGER: Yes, sir.

MR. COOK: What section were those notices issued on?

WITNESS KLINGER: The section that it was issued on was --

MR. COOK: I don't mean section of the regulation; I mean section of the mine.

WITNESS KLINGER: The section I issued it on was on the main tunnel; the main tunnel where you go past daily.

MR. COOK: Were they both there?

WITNESS KLINGER: No. The other one was on the middle split.

MR. COOK: The main tunnel and the middle split?

WITNESS KLINGER: Right.

MR. COOK: Are there any federal regulations regarding the minimum number of feet that a chute or breast can be driven up?

In other words, is there any minimum length that a breast can be driven, under federal regulations?

Do you understand?

Looking at the map, going from the monkey up, is there anything in the federal regulations that puts a maximum distance that a breast can be driven up?

WITNESS KLINGER: With cross-cuts every 60 feet.

MR. COOK: You are saying that there is no minimum distance providing that they make the cross-cuts?

WITNESS KLINGER: No, sir, if they make a cross-cut every 60 feet.

MR. COOK: Do you have any knowledge of why Number 17 was driven as a slant chute?

WITNESS KLINGER: This has to be taken after the inundation; correct?

MR. COOK: When you were in the mine in February, how far was Number 17 Chute in?

WITNESS KLINGER: One or two cuts, I would say.

MR. COOK: One or two cuts.

I think this question really goes beyond your knowledge at that time. They are asking why it was driven as a slant chute.

WITNESS KLINGER: I can only answer after the inundation -- it is because they were making a connection to Number 15 for a cross-cut.

MR. COOK: But, at the time of your inspection, it was not a slant chute at that time?

WITNESS KLINGER: No, sir.

MR. COOK: Would there be any other questions?

(No response.)

MR. COOK: Thank you, Mr. Klinger.

(Witness excused.)

MR. COOK: We will take a five-minute break.

(Recess.)

MR. COOK: The hearing will now come to order. We have called as our next witness Mr. Clarence Miller. Whereupon,

CLARENCE MILLER

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name for the record?

WITNESS MILLER: Clarence Miller.

MR. PHARES: What is your address, Mr. Miller?

WITNESS MILLER: York, Pennsylvania.

MR. PHARES: Mr. Miller, before we begin the questioning, I want you to understand that this is a formal, investigatory hearing. A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question, and you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statements which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS MILLER: I do.

MR. PHARES: Thank you.

MR. COOK: Mr. Strain?

MR. STRAIN: Would counsel like to make an appearance, please?

MS. WASICEK: My name is Justine Wasicek. I am counsel with the Pennsylvania Department of Environmental Resources.

MR. STRAIN: Mr. Miller, what is your position?

WITNESS MILLER: State Mine Inspector.

MR. STRAIN: With what office?

WITNESS MILLER: Office of Deep Mine Safety, Department of Environmental Resources.

MR. STRAIN: How long have you held this position?

WITNESS MILLER: About 12-and-a-half years.

MR. STRAIN: Prior to that, what experience did you have in mining?

WITNESS MILLER: I have been in the mines as a laborer and a miner and a mine foreman for a period of 43 years, including when I served as an inspector.

MR. STRAIN: Could you briefly describe your duties

as a mine inspector?

WITNESS MILLER: My duties?

MR. STRAIN: Yes.

WITNESS MILLER: Well, I inspect the mines every few months, and visit every working face, and check for roof support, ventilation; anything that would pertain to the safety of the workmen in the mine.

MR. STRAIN: Do you make reports of your inspections?

WITNESS MILLER: I make reports, yes.

MR. STRAIN: Do you file those reports?

WITNESS MILLER: I file those reports with the Department in Harrisburg and Pottsville, and I send a copy to the operator.

MR. STRAIN: Do your duties include the review of the opening plans for new mines or reopened mines?

WITNESS MILLER: An operator, before he can begin opening a mine, has to make plans and have them approved by the Department, including myself.

MR. STRAIN: After you approve them, who would you send them to?

WITNESS MILLER: After I approve them, I send them to the Pottsville office, where my immediate superior, Shober, will approve them, and from there, he will send them to Harrisburg, where Walter Vicinelly will approve them.

MR. STRAIN: As a district inspector, does your

district include the Porter Tunnel Mine, operated by the Kocher Coal Company?

WITNESS MILLER: Yes, it does.

MR. STRAIN: How long has it included that mine?

WITNESS MILLER: Since they started their opening, which was in, I believe, 1968. I might be wrong on that.

MR. STRAIN: Did you approve the opening plan for that mine?

WITNESS MILLER: Yes, I did.

MR. STRAIN: Was that plan subsequently approved by your superiors in Harrisburg?

WITNESS MILLER: Yes, they were.

MR. STRAIN: Do you have a copy of the approval for that mine from Harrisburg?

WITNESS MILLER: Yes, I do.

MR. STRAIN: Could you produce that, please?

(Document shown to Mr. Strain.)

MR. STRAIN: Is there a letter of approval for that opening plan?

WITNESS MILLER: Yes, there is.

MR. STRAIN: Who is it signed by, please?

WITNESS MILLER: It is signed by H.B. Charmbury.

MR. STRAIN: What is the date of the letter?

WITNESS MILLER: October 25, 1968.

MR. STRAIN: What was Mr. Charmbury's position?

WITNESS MILLER: Secretary of Mines and Mineral Industries.

MR. STRAIN: Were there any conditions to that opening --

WITNESS MILLER: Yes. He stated that he received the copies of plans showing the location, and so forth, and he stated that he made a study of it.

Then, he gave three issued orders: roof support plan, not to exceed six feet centers; test drill holes to be kept ahead; and to flank all places approaching inaccessible abandoned workings.

Then, he goes on to state, "Should changes of proposal be necessary due to mining conditions, such changes shall be approved by the district inspector."

MR. STRAIN: Could you mark that letter, please, as Exhibit 15?

(Whereupon, the document was marked as Panel Exhibit No. 15, for identification.)

MR. STRAIN: Let the record show it so being marked.

When was your first inspection of the West Skidmore section of the Porter Tunnel Mine?

WITNESS MILLER: I'm looking at my report for the present time. I have to look to see when I made that inspection, which was on October 27, 28 and 29 of 1975.

MR. STRAIN: That would have been your first

inspection of this section?

WITNESS MILLER: I would presume it was. I don't have any inspections here of an earlier date.

MR. STRAIN: Could you mark that report, please, in the upper left-hand corner, as Exhibit 16-A?

(Whereupon, the document was marked as Panel Exhibit No. 16-A, for identification.)

MR. PHARES: I am wondering if Exhibit 15 could be brought up to the Panel to look at.

MR. STRAIN: Is the first inspection report marked as Exhibit 16-A?

MS. WASICEK: Yes, it is.

MR. STRAIN: When is the next inspection report?

WITNESS MILLER: The next inspection report was December 29, 30 and 31 of 1975.

MR. STRAIN: Would you mark that as Exhibit 16-B, please, and the record will show that is so marked.

(Whereupon, the document was marked as Panel Exhibit No. 16-B, for identification.)

MR. STRAIN: And your next inspection report?

WITNESS MILLER: January 26, 27 and 28 of 1976.

MR. STRAIN: Would you mark that, please, as Exhibit 16-C?

MS. WASICEK: So marked.

(Whereupon, the document was marked as Panel Exhibit No. 16-C, for identification.)

MR. STRAIN: And your next inspection report?

WITNESS MILLER: March 29, 31, April 1, 2 of 1976.

MR. STRAIN: Could you mark that as Exhibit 16-D?

(Whereupon, the document was marked as Panel Exhibit No. 16-D, for identification.)

MR. STRAIN: Your next inspection report?

WITNESS MILLER: June 2, 3, 4, 7 and 9 of 1976.

MR. STRAIN: Mark that as Exhibit 16-E, please.

MS. WASICEK: So marked.

(Whereupon, the document was marked as Panel Exhibit No. 16-E, for identification.)

MR. STRAIN: And your next inspection report, please?

WITNESS MILLER: July 22, 23 and 26 of 1976.

MR. STRAIN: Can you mark that as 16-F?

MS. WASICEK: So marked.

(Whereupon, the document was marked as Panel Exhibit No. 16-F, for identification.)

MR. STRAIN: What is the next inspection report?

WITNESS MILLER: September 27, 28, 29 and 30, 1976.

MR. STRAIN: Could you mark that as Exhibit 16-G?

MS. WASICEK: So marked.

(Whereupon, the document was marked as Panel Exhibit No. 16-G, for identification.)

MR. STRAIN: The next inspection report?

WITNESS MILLER: November 23, 24, and December 3,

1976.

MR. STRAIN: Could you mark that as Exhibit 16-H?

MS. WASICEK: So marked.

(Whereupon, the document was marked as Panel Exhibit No. 16-H, for identification.)

MR. STRAIN: And the next inspection report?

WITNESS MILLER: January 18, 19, 20 and 21, 1977.

MR. STRAIN: Could you mark that as Exhibit 16-I?

MS. WASICEK: So marked.

(Whereupon, the document was marked as Panel Exhibit No. 16-I, for identification.)

MR. STRAIN: Is that the last inspection that you made, prior to the --

WITNESS MILLER: It was the last inspection that I made.

MR. STRAIN: Mr. Vicinelly?

MR. VICINELLY: How long have you been an inspector at the Kocher Coal Mine?

WITNESS MILLER: Since 1968.

MR. VICINELLY: At any time, did you order that test holes be drilled in advance of the face?

WITNESS MILLER: Yes, I did.

MR. VICINELLY: Can you tell me what the minimum plan was, or what the order was?

WITNESS MILLER: The order was to comply with the

mine law, which was drill holes to the top, to the bottom, straight ahead, and 20 feet in advance of the working face or as much more as necessary.

MR. VICINELLY: During the time that you were making inspection, did you ever observe test holes being drilled?

WITNESS MILLER: Yes, I did.

MR. VICINELLY: Did you ever observe top holes being drilled, the flank, the high holes?

WITNESS MILLER: Do you mean, to the rib?

MR. VICINELLY: Yes.

WITNESS MILLER: Yes.

MR. VICINELLY: Did you ever observe straight holes being drilled?

WITNESS MILLER: Yes, I did.

MR. VICINELLY: Did you ever observe bottom holes being drilled?

WITNESS MILLER: Yes, I did.

MR. VICINELLY: How did you determine that this order was carried out -- excuse me, Clarence. How did you determine that the test holes were in the depth you requested?

WITNESS MILLER: Well, I didn't measure every hole that they drilled. It was impossible for me to do that.

MR. VICINELLY: But, the ones you did measure?

WITNESS MILLER: They were the required length, or longer. They were really drilling holes much longer than

required by law.

MR. VICINELLY: I guess what I want to know, Clarence, is: how did you determine that they were in the distance that you requested?

WITNESS MILLER: With the number of splices they had on their -- together, they had a four-foot splice, a two-foot splice, adding them together.

MR. VICINELLY: When you are referring to "splices," are you talking about drill steels?

WITNESS MILLER: Drill steels.

MR. VICINELLY: Did you ever observe anybody drilling test holes?

WITNESS MILLER: Yes.

MR. VICINELLY: Do you recall who it was?

WITNESS MILLER: There were numerous ones that I saw drilling test holes in different and various places.

MR. VICINELLY: You don't remember any person that you observed?

WITNESS MILLER: Yes, in the gangway. I know that Philip Sabatino, one of the victims, I know I saw him drilling test holes.

MR. VICINELLY: Anyone else that you can remember?

WITNESS MILLER: Yes, up the breast. If I would have to tell you just who the miner was that I saw, I couldn't do that. I wouldn't recall that.

MR. VICINELLY: During your inspections, when you were underground, did you talk to miners, or did you discuss with miners the abandoned workings in the vicinity of the Skidmore section?

WITNESS MILLER: We talked about it, but there was no need to discuss with them, and I still let them know about it, and they all knew they were there.

There wasn't anybody in there that didn't know that they were heading towards the old workings, which were supposed to be tapped.

But, we talked about it on numerous occasions as to what should be done in the case if water would come, or anything like that. Sometimes, when you drain water, it comes faster than you want it to come. We discussed different things with them.

MR. VICINELLY: During the time of your inspections, Clarence, were holes drilled into abandoned workings?

WITNESS MILLER: Do you mean in regards to the West Skidmore Gangway?

MR. VICINELLY: Yes.

WITNESS MILLER: Yes. There were holes drilled into the Weaver mine, and drained. Of course, after the initial hole had penetrated the mine, they drilled numerous other ones to completely de-water the mine.

So, there were numerous holes drilled into that

abandoned workings.

MR. VICINELLY: Were you underground in any of the breasts to observe them tapping off water?

WITNESS MILLER: Well, I wasn't there when the hole was drilled through into the abandoned workings, but they notified me, and I went out, and I observed it.

MR. VICINELLY: Could you briefly tell us what you observed?

WITNESS MILLER: Well, if I am correct, it was Number 7 Breast -- I believe it was Number 8 Breast -- and they had a heading driven in partially, a breast heading, and from there, they drilled through into the abandoned workings.

Then, they went down to a lower elevation, and drilled some more holes through, until they finally had the whole mine de-watered.

MR. VICINELLY: If I understood you, you stated that they drilled the hole up high, and then after they tapped that off, they would drop down to the lower elevation?

WITNESS MILLER: Yes.

MR. VICINELLY: What is the reason for that?

WITNESS MILLER: The mine was penetrated at a higher elevation than what the water was in the mine. So, they only drained off a portion of it. They had to drain the entire mine. They had to get to the lower part of the mine in order to drain it.

MR. VICINELLY: When you went underground, I believe you stated 7 or 8 Breast, and you said you think it was Number 8 Breast.

WITNESS MILLER: Yes. I would have to check on the mine map to make sure.

MR. VICINELLY: Did you order that the men be withdrawn from the mine?

WITNESS MILLER: I ordered the men withdrawn from inby that particular section of the mine, because they were draining the water, and it was coming down the pitch, and it was eroding some of the support of the timber.

They needed some men in there to do some repair work, so those men stayed in there, but there was no one working inby that until that water had receded.

It was an order that was issued, but they already had the men being brought out of the mine. They knew themselves that it was necessary to do that.

MR. VICINELLY: Men had been withdrawn from the coal mine, prior to you going underground?

WITNESS MILLER: Yes.

MR. VICINELLY: What did your order say?

WITNESS MILLER: My order said that all work inby Number 7 Breast should be stopped, and only the men working in this section of the mine shall be the men needed to complete the de-watering of the abandoned mine.

MR. VICINELLY: Do you know how long it took to tap that water off?

WITNESS MILLER: I don't know exactly how long that took. The only thing that I can recall is that the mine foreman called me up, and told me that they made the first penetration, that he had now opened it up, that we could go over to examine the old workings at the abandoned mine.

MR. VICINELLY: Did you go in and examine the workings?

WITNESS MILLER: Yes. On June 2 is when I went in there and made a check that they were draining the water, and on June 9 is when they had a hole through into the mine that we could enter into the abandoned mine.

MR. VICINELLY: Were you notified when the water was drained off?

WITNESS MILLER: Well, I would presume that after the water was drained off and they got that hole through, that is when they called me.

MR. VICINELLY: Did you explore the area?

WITNESS MILLER: Yes. I was along with the mine foreman to make the exploration.

MR. VICINELLY: Do you know how far you traveled?

WITNESS MILLER: I couldn't give you the distance, but I would judge it to be approximately 200 feet.

MR. VICINELLY: Was there any water in there?

WITNESS MILLER: Not that we could observe, although there were little pools of water that could be standing down in the bottom that dammed up in the gangway, which we know there was, because they finally drained that as they went through with holes from every breast.

MR. VICINELLY: All right, Joe.

MR. COOK: Mr. Miller, before you go in a mine, do you look at the mine map in the mine office?

WITNESS MILLER: Yes, I do. I acquaint myself, especially in a case like this.

MR. COOK: On the several occasions that you went in the mine in 1976, and your inspection in 1977, in looking at the mine map at the mine office, to what extent did it show old works in the vicinity of the West Skidmore Gangway?

WITNESS MILLER: It didn't show it anymore than to let us know that there were some abandoned workings up there, which were uncharted.

MR. COOK: Were there any specific distances showing the old Bush slope, for example?

WITNESS MILLER: The Reading Company, who owned the property previously had made a survey of the surface, so we were practically assured where the portal of the mines were located.

MR. COOK: You knew where the portal was?

WITNESS MILLER: Yes.

MR. COOK: Did you have any idea of what the depth of that Bush slope was?

WITNESS MILLER: No.

MR. COOK: On your last inspection of the West Skidmore Gangway section -- maybe you have answered this -- did you observe test holes being drilled?

WITNESS MILLER: On the last inspection?

MR. COOK: Yes.

WITNESS MILLER: No, I didn't.

MR. COOK: Had you discussed with a federal inspector, at any time, the drilling plan for the test drill holes at the West Skidmore Gangway section?

WITNESS MILLER: No, I didn't have occasion to discuss that. The thing is, there are numerous occasions now, like after the water penetrated that first mine; I know that one of your inspectors, Mr. Cawley, had also been in there, and observed what was going on.

I met him the next morning, and we discussed proceedings as to what was going on, and so forth. On one particular day -- and I couldn't tell you what day -- I know that I was in the mine, and I was making a joint inspection with one of your inspectors, Charlie Klinger. We were talking about draining water.

So, evidently, I just presumed that he knew about it. If he would have wanted any information that I had that

he didn't have, I certainly would have been glad to give it to him.

MR. COOK: During your inspection, did you ever have an occasion to issue any notices for violations for not following the test drill hole plan for abandoned workings?

WITNESS MILLER: No. We had occasion -- not in that particular section, but throughout the entire mine they have this problem: not abandoned uncharted, but charted workings.

They certainly drilled -- they neverwent any closer than 50 feet before they drained it -- no, I never had to issue a violation.

MR. COOK: On your last trip into the West Skidmore Gangway section, did you notice anything unusual in that section?

WITNESS MILLER: No, I didn't notice anything unusual, except at that particular time when I made the last inspection, they were finding irregular conditions in thickness of the seam,and so forth. But, otherwise, I didn't notice anything irregular.

MR. COOK: Did any of the workmen have occasion to discuss with you the difficulty of drilling down holes the last time you were in the West Skidmore Gangway section?

WITNESS MILLER: No.

MR. COOK: Did you ever have any complaints from any of the workmen in the mine concerning the drilling of test holes for abandoned workings?

WITNESS MILLER: No, I never had any.

MR. COOK: That is all right now.

Mr. Vicinelly?

MR. VICINELLY: Jack?

MR. TISDALE: Mr. Miller, the test hole drilling plan that we are talking about; could you describe it to me again? Is it a plan with sketches, or is it a written plan, or -- could you describe it to me a little bit better?

WITNESS MILLER: No, the thing is they had to, according to the opening plans, if they wanted to develop a new section which was not being worked before, they had to notify me, and they would give me plans, and so forth.

Knowing that there was some independent mine workings up there that were uncharted, I met with the officials, and we discussed this drilling program before they ever started the gangway.

They were -- I left them know that they had to comply with the mining law. The mining law states that they must drill in all directions; up, down, and straight ahead.

MR. TISDALE: When they encountered the impounded water at Number 8 Breast, you say the company official notified you about drilling into the water?

WITNESS MILLER: Yes.

MR. TISDALE: Do you remember what day that was?

WITNESS MILLER: Well, it must have been the day I went out there, because immediately, I went out -- what day was that? Probably June 2, because that was the first day that I was there on inspection.

MR. TISDALE: You were there on June 2 to investigate what was going on with the impounded water?

WITNESS MILLER: Yes.

MR. TISDALE: Did you see a federal inspector there that day?

WITNESS MILLER: I don't think. I'm not sure. I think your inspector was in the day after. I'm not sure of that, though.

MR. TISDALE: Do you know who notified the federal inspector about the impounded water?

WITNESS MILLER: I wouldn't know that.

MR. TISDALE: You didn't have any communications with him at all?

WITNESS MILLER: No.

MR. TISDALE: I would like to think a little bit, so I have no further questions at this time.

MR. VICINELLY: All right.

Bob?

MR. PHARES: Mr. Miller, when that plan was formulated that Mr. Tisdale was just referring to, was the mining engineer included in the formulation of that plan?

WITNESS MILLER: He was included in it as much as he had the mine -- he had a copy of the map there for us.

MR. PHARES: Was there a meeting that was held?

WITNESS MILLER: Yes.

MR. PHARES: Who was at that meeting?

WITNESS MILLER: The mine foreman was there, and Leon Richter, the Vice-President.

MR. PHARES: Do you remember when that was held, the date that was held?

WITNESS MILLER: I couldn't tell you the date. The only thing that I know is that it was previous to them doing any work in there.

MR. PHARES: You were discussing earlier the last time you inspected the Porter Tunnel, the West Skidmore. I missed the date of that. What was the date of that?

WITNESS MILLER: January 18, 1977.

MR. PHARES: Is that the day that you saw Mr. Sabatino drilling the test holes?

WITNESS MILLER: No, that is not the day.

MR. PHARES: Do you remember when that day was?

WITNESS MILLER: I do not.

MR. PHARES: Did you see him drilling any holes in the low rib?

WITNESS MILLER: Yes, that is where I saw him drill.

MR. PHARES: Near which chute is that?

WITNESS MILLER: I know it was on one of my previous inspections. As to give you the number of the chute, I wouldn't know.

MR. PHARES: Did you see any other employees drilling test holes in the lower rib of that West Skidmore Gangway?

WITNESS MILLER: No. There are very few occasions that I made an inspection that they were actually at the point of drilling in their work.

Most of the time, they were either timbering or loading coal or something similar to it. So, not every time I went in there were they in the process of drilling. It just happened on that one occasion that they were.

MR. PHARES: That was the only occasion that you happened to -- when you were inspecting the West Skidmore -- that they happened to be drilling any test holes; is that correct?

WITNESS MILLER: Well, I couldn't say that that was the only time. I have seen them drilling on numerous occasions at numerous locations, and I couldn't tell you exactly whether that was the only time now that I have seen them drilling or not.

MR. PHARES: Do you know George Madenford?

WITNESS MILLER: Yes, I know him.

MR. PHARES: Did you ever see him drilling any test holes in the West Skidmore Gangway?

WITNESS MILLER: I don't believe I was in there anytime that he was working in that gangway.

MR. PHARES: During your inspection, did any workmen express the fear of approaching abandoned mines to you?

WITNESS MILLER: I don't know what you would call fear, but I mean, concern, I would say rather.

MR. PHARES: Do you remember the names of any of these individuals?

WITNESS MILLER: Well, the one in particular was Philip Sabatino, and that is the fellow that had charge of the drilling program at the face of the gangway.

MR. PHARES: Do you remember that conversation?

WITNESS MILLER: Well, the only conversation that I could recall was that he was always saying that he was concerned that everybody else should drill ahead as he was, because he realized that if one man would make a mistake, his life, too, would be in danger.

So, his concern was, more or less, about what the rest of them were doing.

MR. PHARES: I have no further questions.

MR. VICINELLY: Jim?

MR. SHOBER: Clarence, where was this test drill hole program initiated; at what chute in the West Skidmore Gangway?

WITNESS MILLER: Number 7 or 8; I think it was 8.

MR. SHOBER: Why was this place chosen, Clarence?

WITNESS MILLER: Well, you have to have a starting point somewhere. We figured that was a safe starting point.

MR. SHOBER: Clarence, how many inspections did you make of this mine annually?

WITNESS MILLER: Well, I inspected every two months; sometimes, maybe more often. Maybe if I would prolong it for a week or so, it could be possible that I would only make it five in one year, and maybe seven in another, but on an average of six a year.

MR. SHOBER: Clarence, were you notified whenever they did drill into abandoned workings in the West Skidmore Gangway?

WITNESS MILLER: I was notified whenever they drilled into -- the West Skidmore Gangway? I was notified on numerous occasions when they used to drill through with different various breasts. I wasn't always in there. I didn't always go in, because actually, that was just a matter of procedure, because there was very little water up there anymore.

MR. SHOBER: Did you notice on inspection that the test hole drill program had been executed since it was been started?

WITNESS MILLER: Well, I have certainly seen them drilling ahead on numerous occasions. They have always cooperated fully. I had no reason to believe they didn't.

MR. SHOBER: Thanks, Clarence. That is all I want to ask.

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Miller, you stated that even before the West Skidmore section opened, that you knew that there were uncharted workings in the area.

How did you know that?

WITNESS MILLER: By the survey that had been made by the Reading Company, and it showed the uncharted mines up there. There are three mines up there, independent workings.

MR. STRAIN: After the old workings of the Weaver mine had been put in at Number 8 Chute, were you at all concerned about encountering those abandoned workings?

WITNESS MILLER: We certainly were, because that was only the first time. We knew there were two more.

MR. STRAIN: When you say "we," was the company also concerned?

WITNESS MILLER: They were.

MR. STRAIN: Was there any concern that the workings might extend below the gangway?

WITNESS MILLER: When you have an uncharted mine, you have to consider in all directions, and that is what they did. They had some -- from some people, they got information that there was a possibility that that mine could be down 800 feet; so they were aware of that.

MR. STRAIN: Is it normal to mine near abandoned workings?

WITNESS MILLER: It certainly is. If we wouldn't be mining near to abandoned workings, with all the independent mines that are in the area, we wouldn't do any mining at all.

MR. STRAIN: Is it normal to mine near uncharted workings?

WITNESS MILLER: Certainly, yes. It is common.

MR. STRAIN: Have you yourself ever mined near uncharted workings?

WITNESS MILLER: I didn't understand that.

MR. STRAIN: Did you yourself, when you were mine foreman, ever mine near uncharted workings?

WITNESS MILLER: Yes.

MR. STRAIN: What procedure did you use for determining those workings?

WITNESS MILLER: By drilling ahead, both straight ahead and flank holes and draining it off with a drill hole.

MR. STRAIN: Do you think this was a necessary procedure?

WITNESS MILLER: I would not know how else to drain it.

MR. STRAIN: Would you be concerned if that procedure was not used?

WITNESS MILLER: I certainly would.

MR. STRAIN: I believe you testified that you observed Mr. Sabatino drilling in the gangway; is that correct?

WITNESS MILLER: That is right.

MR. STRAIN: Was he, at that time, drilling down dank holes?

WITNESS MILLER: Yes.

MR. STRAIN: You observed that?

WITNESS MILLER: Yes.

MR. STRAIN: During your inspections, other than when you saw people drilling, were you able to observe any test holes that were previously drilled?

WITNESS MILLER: Yes. I saw test holes that were previously drilled, especially in the breasts.

MR. STRAIN: How about in the gangway or in the monkey?

WITNESS MILLER: Well, in the gangway, unless you were in there before they placed the last set of timber, you wouldn't see the rib hole onto the top, for the simple reason that that was closed off with timber. Straight ahead, however, was visible, and down the pitch -- well, for anybody after a cut has been fired and has been scooped up and cleaned up, it would be a miracle for anybody to go in there and find that hole.

MR. STRAIN: What was the nature of the coal in the

section?

WITNESS MILLER: The nature was fiber or softer, whatever you want to call it, very fine; not all, but in most sections.

MR. STRAIN: Did that present any particular problems?

WITNESS MILLER: I wouldn't venture to say that it would create any problems anymore than maybe sometimes, it would create a problem, cleaning a hole, or something like that.

MR. STRAIN: Did the soft coal indicate to you that they were in the vicinity of dammed-up water and uncharted workings?

WITNESS MILLER: I don't think soft coal had anything to do with that.

MR. STRAIN: Why not?

WITNESS MILLER: I couldn't answer that question. The nature of the coal seam has nothing to do with somebody working it or not.

Coal is naturally soft. Water doesn't soften it.

MR. STRAIN: Have you encountered soft coal far from uncharted workings, or far from abandoned workings?

WITNESS MILLER: You cannot encounter soft coal anywhere.

MR. STRAIN: I believe you testified that you never issued a notice of violation with regard to drilling of test

holes. Does your inspection report make any mention of drilling test holes?

WITNESS MILLER: My inspection reports don't report test holes. The only thing is, if you are referring to orders that I issued, that they should be drilled, they were on my reports.

MR. STRAIN: What were those orders?

WITNESS MILLER: On March 29, it was ordered, test holes and sufficient flank holes to be kept at least 20 feet in advance of all working faces, inby Number 10 Breast in the South Dip West Skidmore Gangway, due to the possibility of impounded water in uncharted abandoned mines.

Then, again on July 22, I ordered test drill holes to be kept at -- well, this has to do with another area of the mine.

On September 27, I ordered test drill holes and sufficient flank holes to be kept at least 20 feet in advance of all working faces of the South Dip West Skidmore Gangway, until the abandoned mine workings have been located.

Then, on the last inspection I made, I ordered the mine foremen to continue to keep test drill holes and sufficient flank holes at least 20 feet in advance of all working faces of the South Dip West Skidmore Gangway until all of the abandoned mine workings in the area have been located and de-watered.

MR. STRAIN: Why did you issue those orders?

WITNESS MILLER: It was just a matter of procedure. I wouldn't have had to issue any orders at all, because there was a drilling agreement set up.

In other words, it was just a reminder to them and to my Department that the job was being done.

MR. STRAIN: So, you are not aware of any instance in which they were not drilling these test holes?

WITNESS MILLER: I am not aware of any instance that they were not drilling, no.

MR. STRAIN: And from all of your information, they were drilling the test holes?

WITNESS MILLER: From the information that I had, they were.

MR. STRAIN: When you explored the old workings off of the Number 8 Chute, were you ever able to determine what the nature of those workings was?

WITNESS MILLER: What do you mean by the nature?

MR. STRAIN: Did you count a chute, or a breast, or --

WITNESS MILLER: Well, the thing is that a lot of the coal had fallen off the rib and filled the gangway with coal, so that we couldn't walk in the gangway like you would a normal gangway, but we observed where some chutes had been driven up. We knew that what we were going in was our gangway. That we could tell. We knew that where the water was drained

from, that was the breast. That was practically open all the way. We could very well go down that one to the gangway.

MR. STRAIN: That is all.

MR. VICINELLY: I have some questions here from the audience that I am going to read.

In view of what happened, and in view of what was found after the inundation, are you of the opinion that down holes were actually drilled inby 17 and 18 Chute in the gangway?

WITNESS MILLER: That has been the Commission making an investigation, and I am not the only one that was in there. It is hard for me to come up with an answer to that.

Until somebody explores it to a greater extent, I cannot tell whether there were holes drilled, or whether there weren't.

MR. VICINELLY: You said you observed the drilling of down holes in the gangway. Did you observe any being drilled inby Number 18 Chute? Did you measure any that were inby 18?

WITNESS MILLER: My last inspection was on January 17, and this happened on March 1, so I definitely was not in that mine when they were at that particular location.

MR. VICINELLY: Did you talk to Mr. Weaver about the old workings?

WITNESS MILLER: Yes, I did.

MR. VICINELLY: What information did you get from him?

WITNESS MILLER: Confusing information. The thing is, I talked to him, and he told me a lot about -- the thing is, I talked to him after we had dewatered and been in his mine.

The reason I talked to him was to see what he knew about the mine that was adjacent to him.

MR. VICINELLY: When you say you talked to him after you de-watered, can you tell us about what period or what time, or where was the de-watered work?

WITNESS MILLER: Well, we explored his gangway, I think I had said on June 9. So, it must have been within a day or two that I went to him to see what information I could gather on the mine that was next, which was the Bush mine.

The only thing that he could tell me was that he closed his mine, and they were still working. To how far they advanced, he said he didn't know, but he knows that he thinks they were deeper than he was.

MR. VICINELLY: Why did Sabatino have to be concerned about the other miners drilling if all of the miners were following the plan that has been attested to?

WITNESS MILLER: The only answer I can give to that -- if I was working in there, and knowing what is ahead, which he did, I certainly would be concerned about what every man is doing in there. I wouldn't trust anybody.

MR. VICINELLY: The next question is: did you feel that you spent enough time in the Skidmore section to see that the drill plan was carried out?

WITNESS MILLER: There is a limit as to how much time I can spend in there, because there are other mines to inspect.

But, from what I observed, I am sure that they were drilling ahead, and I didn't see why I should stay in there.

MR. VICINELLY: How many other mines do you have, Clarence?

WITNESS MILLER: My total number is 26.

MR. VICINELLY: On 26, how many inspection days would that be normally?

WITNESS MILLER: 26? Well, that would all depend. Some mines are smaller than others, and a mine, like Porter Tunnel Mine, takes longer than a smaller two or three-man mine. But, if you are considering the time that an inspector has, he has got a lot more work besides inspecting mines.

MR. VICINELLY: I agree with you. Were you completely satisfied with the drilling program as it was carried out in the West Skidmore section?

WITNESS MILLER: When you ask me that question, I would have to be in there every time they drilled to be perfectly 100 percent satisfied, and I could not do that.

MR. VICINELLY: Are you required to observe the

actual drilling of the test holes?

WITNESS MILLER: Am I required? I wouldn't see how that could be possible with 26 mines. I have numerous mines that are doing the same kind of work, and I can't be in there observing them all drilling ahead. I can issue the orders. But, certainly, I cannot do the managing at all 26 mines.

MR. VICINELLY: Did you ever observe or measure test holes on the right flank in any of the breasts or chutes?

WITNESS MILLER: I observed them drilling.

MR. VICINELLY: Did you measure them?

WITNESS MILLER: No, I did not measure them.

MR. VICINELLY: Number 8 Breast, when the water was first located, when the company notified you, how far was the distance from the coal rib or face to the abandoned workings, or how much pillar remained?

WITNESS MILLER: I would have to take a guess at that. I would say roughly from 25 to 30 feet.

MR. VICINELLY: Was there a plan drawn up according to state requirements, and by whom, and what person was present? Was the mine foreman furnished with a copy of the map and drilling plan? Was this plan available?

WITNESS MILLER: Yes. He was present when we came up with the plans, and we had the map before us. We decided when we were going to start drilling, and follow the mine law in drilling.

MR. VICINELLY: Did you observe or measure any down holes inby Chute 16 in the gangway?

WITNESS MILLER: From January 17, when I was last in there, until March 1, they traveled over that area without me being in there.

MR. VICINELLY: I guess, Clarence, what they are asking here is: did you observe or measure any down holes inby 16 Chute in the gangway?

WITNESS MILLER: The thing is, in answer to that question, I thought I had answered it, because --

MR. VICINELLY: Well, I don't know if they are referring here to doing your inspections or what. That is the reason I asked it again.

WITNESS MILLER: I don't know at what particular point the gangway was at when I inspected it in January, but I am sure that from January until March 1, they traveled a greater distance than from 16 to where the face of the gangway was.

MR. VICINELLY: The opening plan required holes to be drilled on both the high and low side and in the face. Did that opening plan apply to all sections of the mine, first question. Does this apply to all sections of the mine?

WITNESS MILLER: It applied to all sections of the mine where there were uncharted workings, or where there were charted workings that we knew contained water.

MR. VICINELLY: Were the down holes being drilled in all sections of the mine?

WITNESS MILLER: The only place you would drill down holes, the way I understand it, would be in the gangway, and in the monkey possibly, although the monkey is always -- the gangway is ahead of the monkey, so the upper rib should be proofed if the test holes are driven according to the law.

MR. VICINELLY: I think what they are asking here, Clarence, is: were they drilled in all sections of the Kocher Mine, down holes?

WITNESS MILLER: That is the only section of the mine where we have uncharted workings.

MR. VICINELLY: Did you observe the down holes in all sections? I think you answered that when you said that that is the only section that they were approaching abandoned workings, unless there is something you wanted to add.

WITNESS MILLER: No.

MR. VICINELLY: Was there a written plan on test holes? If you approved it, where is it?

WITNESS MILLER: The written plan is contained in our mining law. The law states that you have to drill flank holes in each direction and test holes straight ahead, and it also states "sufficient flank holes 20 feet in advance of the

working face."

In other words, there were no written plans. The plans were made orally when we were in there because it was agreed that they would comply with the mine law, which they always have.

MR. VICINELLY: We had one of these, but the second question that they ask is: did you ever talk with any of the Bush on the abandoned mine, that the mine was advancing toward -- if so, was the information satisfactory to you, or did you search for more information?

WITNESS MILLER: There is only one Bush that I knew thatwas still living, and none of them that worked in the coal mines. This was just a son of one of the partners, and he works at Porter Tunnel.

The only thing that he knew was, as a young boy, he would go with his dad up there, and maybe see the mine once or twice a year, or maybe what his dad repeated at home. That is about the only thing that we could get any information from.

Of course, after this inundation, I was told that there was still one of the partners that used to hoist coal who is still living. And they told me where he lived.

So, I saw him after this incident.

MR. VICINELLY: But, you did talk to Bush before the incident?

WITNESS MILLER: Marlin Bush. He was only a young

fellow when his dad was working up there in the coal mine.

MR. VICINELLY: Did you issue any notices on your inspections?

WITNESS MILLER: I read most of them here.

MR. VICINELLY: Did Mr. Weaver tell you that the slant slope was the deepest?

WITNESS MILLER: No. Mr. Weaver didn't know.

MR. VICINELLY: How many gangways did Weaver say he had?

WITNESS MILLER: Mr. Weaver said he had one gangway, and he had two.

MR. VICINELLY: What is the distance from 18 Chute to the face of the gangway, approximate feet?

WITNESS MILLER: 70 feet.

MR. VICINELLY: How far back would you go before starting 19 Chute?

WITNESS MILLER: Chutes have to be driven every 60 feet. They have to make a connection. But, when you go 60 feet, you have to go maybe five feet beyond that, or 10 feet, to catch the corner before you start that chute.

MR. VICINELLY: Why was slant driven at 17?

WITNESS MILLER: In order to serve for Breast Number 16, because they figured 16 unsafe; the condition of the coal, the nature of the coal, the thickness of the coal, and the big opening it created when they started the breast. It was

better to go up Number 17 and cross over to the slant where it had better roof and better conditions altogether.

MR. VICINELLY: Is there a certain number of feet you have to go up 17 Chute before you start a slant breast; any regulations?

WITNESS MILLER: I don't understand what is meant by that question.

MR. VICINELLY: I think what they are asking is: is there any regulation that says you have to go up the breast so many feet before you can trim the slant off of it?

WITNESS MILLER: No, there is no set distance. The only thing is, I am sure that any mine foreman or anybody that is experienced in the type of coal that they were mining there would not start directly on the monkey. He would go up a short piece in order to secure his corner before he would start the slant.

MR. VICINELLY: Was special permission or some type of waiver issued so that 17 Slant Breast was started approximately 20 feet from the monkey?

WITNESS MILLER: No, there was nothing issued.

MR. VICINELLY: I am not an anthracite miner, but I don't understand that question, so I hope it was answered satisfactorily.

MESA issued notices on their inspections. Did you?

WITNESS MILLER: No, not notices; orders. What do

you mean by "notices"? A violation? An order would be a notice, wouldn't it?

MR. VICINELLY: All right. If you find a violation in a mine, what do you do?

WITNESS MILLER: If I find a violation, I put a stop order on it until it is corrected.

MR. VICINELLY: Does it appear on an inspection report?

WITNESS MILLER: Oh, yes.

MR. VICINELLY: I think we answered this one, too. How many other mines do you inspect every two months?

In what location were bottom holes drilled? Did you see them?

WITNESS MILLER: Not more than I stated before; that I saw them in the process of drilling holes down the pitch in the gangway. Where? I don't remember. I couldn't tell. I am under oath, and I certainly wouldn't state a location, because I can't truthfully tell you exactly where it was.

MR. VICINELLY: Please explain Section 238 of the Pennsylvania Mining Law on mine drainage. That is the anthracite law. I think they are referring to the barrier pillar on that.

WITNESS MILLER: 238 is the barrier pillar. One percent of depths below drainage level times the vein thickness plus five times the vein thickness, and that comes

up with the barrier pillar formula.

MR. STRAIN: If I may please interject here, since that is a legal question. Section 238 requires that mines approaching accessible workings, that a stopping distance be shown on the mine map, and that that stopping distance can't be less than 100 feet, and it can't be less than the width of the barrier pillar divided between the two monkeys.

It is not to be passed until the operators and the officials of the mine and the mine inspector and the mine engineer agree as to the starting place for test holes, and location of test holes and the width of entries.

The test holes aren't to be less than 20 feet, and sufficient flank holes. That is the requirements of the section.

WITNESS MILLER: Those plans were already discussed out there in the office when we made the plans before they ever started the section, which states there when you are within 100 feet. Well, they were only within about 500 feet at the time they made those plans.

MR. VICINELLY: To your knowledge, was the face of Number 7 mining heading off of Number 8 Breast shot through or drilled through to impounded water?

WITNESS MILLER: I didn't see any evidence of being shot through, either when I was up there examining penetration when the hole penetrated the mine; neither did I see any after

the hole was opened up that we could get over into the other mine, into the abandoned mine. I didn't see any evidence of that.

MR. VICINELLY: Did you tell them to drill the down holes, because you suspected that there were workings below the gangway, or was it because the mine law said they have to be drilled down?

WITNESS MILLER: When a mine is uncharted, I expect water in all directions, and I am sure anybody would that is acquainted with these uncharted workings.

You have to expect it in all directions when it is not charted.

MR. VICINELLY: How many stop orders did you issue in the six months prior to the inundation? Can you tell us what they were, and in what section they appeared?

WITNESS MILLER: At the Porter Tunnel Mine?

MR. VICINELLY: Yes.

WITNESS MILLER: I had no occasion to issue a stop order at any time. The only thing is, I stopped the men from working inside, but I didn't issue an order.

When we issue a stop order, we have a particular form that we fill out, and send it to the operator by registered mail, which in this case, I just ordered on the inspection report that no men should work inby that particular section until the water was drained. And they already were

doing it before I ever put it on their report.

MR. VICINELLY: Do you have anymore questions, Bob?

MR. PHARES: One further question that has already been answered. I am just going to read itfor the person who sent it up so he knows that we got it.

Wherever the gangway was when you inspected on January 17, did you observe down holes drilled during that inspection?

Mr. Miller has already answered that.

WITNESS MILLER: No, I did not, not on that inspection -- that would be January 17--the last inspection I made?

MR. PHARES: Right.

WITNESS MILLER: No, they were not in the process of drilling.

MR. PHARES: I have just a couple more follow-ups.

Mr. Miller, you stated at one point, and I didn't understand what it was in reference to, what area of the mine this was.

You said you saw them drilling ahead on numerous occasions. Was that in the gangway?

WITNESS MILLER: Gangway and breast.

MR. PHARES: Did you see them drilling ahead several times in the gangway of the West Skidmore?

WITNESS MILLER: No, I didn't see that on several occasions, because, like I said before, I was only in there six times a year. And, in fact, from the time it started, I might have been in there six, seven or eight times.

Certainly, you have to be in there and be lucky to find them drilling ahead, unless you stay in there all day.

MR. PHARES: So, this was primarily in the breast that you saw them drilling?

WITNESS MILLER: And out on the gangway.

MR. PHARES: How many times in the gangway?

WITNESS MILLER: Well, ordinarily, to recall, I distinctly remember one time. There could be more, because I have seen them drilling on numerous occasions at different areas of the mine, and I can't just say.

But, one time I do know, because I was talking to the miner that was doing it.

MR. PHARES: Mr. Earl Bush testified here this week that he was an employee of that old Bush mine. Is it your testimony that you did not know he was an employee of that mine?

WITNESS MILLER: I did not know that he was an employee of that mine.

MR. PHARES: But, you do know Mr. Earl Bush?

WITNESS MILLER: I know Earl Bush, yes. I knew Earl Bush, but I didn't know that he worked in that mine.

MR. PHARES: Marlin Bush, when he testified here this week, he told us about the extent of the gangways to the best of his recollection, on the bottom ribs of the old Bush slope.

Did you talk to him about that?

WITNESS MILLER: I talked to him, and he couldn't give us anymore information, other than he presumed that the mine was down there 800 feet.

When I talked to him, he couldn't tell me to any extent as to what the workings were at the foot end of the slope, at the lower elevation.

MR. PHARES: Did you state earlier that Sam Klinger told you that it was Mr. Klinger's understanding that it was possible that the slope went down as far as 800 feet?

WITNESS MILLER: I stated before, and I will state it again, because when you have uncharted workings, you can expect -- you don't know the distance, so you have to expect almost any distance.

MR. PHARES: But, I am referring to a conversation with Mr. Sam Klinger regarding that slope. Did you have a conversation with Mr. Sam Klinger?

WITNESS MILLER: Oh, yes. We knew that Marlin Bush had told us that the information that he had from his dad was that it could be down 800 feet.

MR. PHARES: When was that conversation with Mr.

Klinger?

WITNESS MILLER: About the depth of the Bush mines?

MR. PHARES: Right.

WITNESS MILLER: Oh, I don't know. I would say a couple months anyhow before this happened. To give you a date, I couldn't do that.

MR. PHARES: I have no further questions.

MR. VICINELLY: Jack?

MR. TISDALE: No questions.

MR. VICINELLY: Dennis?

MR. STRAIN: No questions.

MR. COOK: Thank you very much, Mr. Miller.

(Witness excused.)

MR. STRAIN: Mr. Cook, before he is dismissed, may I have entered into the record Exhibit 15 and Exhibit 16-A through 16-I?

(Whereupon, the documents marked as Panel Exhibit Nos. 15, 16-A, 16-B, 16-C, 16-D, 16-E, 16-F, 16-G, 16-H and 16-I were received in evidence.)

MR. COOK: We had one question that was asked prior to today, and it wasn't answered because we didn't think it was relevant to the hearing as such. But, a member of the audience brought it up, and I will answer it at this time.

The question was asked by Mr. Tisdale if the miner got his mine papers by oral examination. Is it not also true

that some federal inspectors got their jobs the same way?

The answer to that question is: anyone who desires a job as a federal coal mine inspector, he submits his application to the Civil Service Commission. He has to have at least five years of mining experience, two of which are specialized training.

The Civil Service Commission then gives us a list of applicants, and those applicants are rated to us, and we have to hire from this list of applicants.

After MESA hires an inspector, he receives almost a year's training before he is what we call a duly authorized representative or a person who can issue notices and orders.

Normally, that training consists of 10 to 12 weeks of specialized training at the Mining Health and Safety Academy, and the rest is on-the-job training.

So, I hope that answers that question.

As mentioned on Tuesday, this is a joint hearing held with the Office of Deep Mine Safety, Pennsylvania Department of Environmental Resources, and the Mining Enforcement and Safety Administration.

It is a part of our ongoing investigation into the accident that occurred at the Porter Tunnel Mine on March 1, 1977.

At this time, would there be anyone who has not been a witness who would like to enter any information into our

record, or give any statement at all concerning this accident? If they would, please identify yourself at this time.

(No response.)

MR. COOK: I would like to say that we, speaking for the Panel, I'm sure, and MESA in particular, appreciate the cooperation that we have had from most of the people here, and in particular, working with the Office of Deep Mine Safety.

Some of our final remarks: we are keeping the record open until June 20, if that is agreeable with the state, for anyone who may wish to enter additional information into the record, or for any witnesses who have appeared here at this hearing who may have additional information that they would like to enter into the record.

Of course, it is a part of our ongoing investigation. The immediate families of the nine victims who were killed in the Porter Tunnel Mine disaster, if they so desire, will be given a copy of the transcript of this hearing.

If you would make those wishes known to Mr. John Shutack or members of the Panel, we will make certain that you do get copies of the transcript of this hearing.

There has been a request from Mr. and Mrs. Earl Klinger who have a poem that was submitted to them by a friend, and they would like to have that read into the record.

We have asked Ms. Lynn Jones, who is one of the

secretaries to the Panel, and whose home also was originally up in the Wilkes-Barre area, to read this poem into the record.

But, before we do that, Mr. Vicinelly, would you have any remarks to make?

MR. VICINELLY: No. I would just like to thank the people for putting up with me, and if there is any information that you can furnish us into this disaster, all you have to do is contact me.

Thank you.

MR. COOK: Would Ms. Lynn Jones come forward, please?

MS. JONES: "As I listen and watch, the news is more grim. They still haven't found my little leaguer, Tim. The fate of Gary has been decreed by someone mightier than you and me.

"His memory will linger for a long, long time. He was a gallant youth, lovable and fine. These young fellows were doing a job, proving they could work like men, shoveling coal, swinging picks, willing to do, taking risks.

"Mining is a hazardous, dangerous work, and Tuesday, tragedy struck. Water came tumbling, roaring in, filling the mine with rubble and muck.

"Brave men died, and women prayed. Brother miners worked and toiled and slaved. Despite all the efforts the rescuers gave, one survived and nine couldn't be saved.

"In times like this, as we are want to do, I remember

the good times with the ones I knew. To me, they are Gary and Tim, my little league buddies full of vigor and vim.

"They were lovable, mischievous, impatient and shy, gangly youth with hair in their eyes, brash and cocky, but never bold, eager to win, and they tell you so.

"The team has grown up, as they always do, but I still think of them and the things they do. Now, they are gone to a better world, leaving us with our worries and cares.

Yet, I know they are fine, as I hear in prayer, and ask for God's comfort for those who despair. For who could refuse them as they flash their big grins, the entrance of heaven, for my little league buddies, Gary and Tim."

MR. COOK: Thank you, Ms. Jones.

There being no other business, this hearing is adjourned.

(Whereupon, at 6:45 p.m., the hearing was adjourned.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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